

2004

SESSION LAWS

OF THE

STATE OF WASHINGTON

REGULAR SESSION
FIFTY-EIGHTH LEGISLATURE
Convened January 12, 2004. Adjourned March 11, 2004.



Published at Olympia by the Statute Law Committee under
Chapter 6, Laws of 1969.

DENNIS W. COOPER
Code Reviser

<http://slc.leg.wa.gov>

WASHINGTON SESSION LAWS GENERAL INFORMATION

1. EDITIONS AVAILABLE.

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

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

(b) *Where and how obtained - price.* Both the temporary and permanent session laws may be ordered from the Statute Law Committee, Legislative Building, P.O. Box 40552, Olympia, Washington 98504-0552. The temporary pamphlet edition costs \$21.68 per set (\$20.00 plus \$1.68 for state and local sales tax at 8.4%). The permanent edition costs \$75.88 per set (\$35.00 per volume plus \$5.88 for state and local sales tax at 8.4%). All orders must be accompanied by payment.

2. PRINTING STYLE - INDICATION OF NEW OR DELETED MATTER

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

(a) In amendatory sections

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

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

3. PARTIAL VETOES

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

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

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

5. EFFECTIVE DATE OF LAWS

(a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the pertinent date for the Laws of the 2004 regular session to be June 10, 2004 (midnight June 9th).

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

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

6. INDEX AND TABLES

A cumulative index and tables of all 2003 3rd special session and 2004 laws may be found at the back of the final pamphlet edition and the permanent hardbound edition.

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
2004 REGULAR SESSION			
202	SSB 6208	Water-sewer connections	825
203	SSB 6286	Oil tank liability	830
204	SSB 5590	Environmental appeals period	833
205	SB 5376	State route 99	835
206	SSB 6367	National historical reserves	836
207	SB 6237	Agricultural use preservation	838
208	SSB 6534	Industrial land banks	839
209	SB 6488	Agricultural land designation	843
210	SB 6476	Manufactured housing communities	843
211	ESSB 6731	Asparagus standards exception	844
212	SB 6339	Seed-related business practices	845
213	SSB 6155	Horticultural pest protection—Outdoor burning	849
214	SSB 6575	Irrigation district facilities	850
215	ESSB 5665	Irrigation district administration	851
216	SSB 6581	Forest fire protection funding	856
217	SSB 6216	Timberland—Tax definition	859
218	2SSB 6144	Forest health improvement	861
219	SB 6269	Harbor lines	866
220	SSB 6560	Hooking animals	867
221	SSB 6148	Law enforcement officers killed in duty—Special license plates	867
222	SSB 6325	Special license plates—Design and qualification	871
223	SSB 6676	License plates—Ownership and transfer	876
224	SHB 3141	Carbon dioxide emissions	880
225	ESSB 6415	Storm water permits	886
226	SSB 6641	Oil spills	891
227	SSB 6329	Ballast water work group	899
228	E2SSB 5957	Water quality data	901
229	PV ESHB 2474	Transportation funding	904
230	HB 2476	Toll collection	944
231	SHB 2475	Toll evasion	945
232	EHB 1433	Highways—Statewide significance	951
233	SHB 2299	Animal identification systems	952
234	SHB 2802	Nonambulatory livestock	952
235	SHB 2929	Business and occupation tax—Beef processors	953
236	SHB 1322	Property tax exemption—Tribal land	954
237	ESHB 2784	Small business incubator program	955
238	ESHB 2675	Tax credits—Electric utilities	956
239	SHB 2452	Electric utility facilities—Siting	958
240	E2SHB 2518	Public utility tax exemption—Electrolytic processing	960
241	EHB 2968	Excise tax deductions—Salmon restoration	962
242	HB 2537	Public safety employees' retirement system plan 2	963
243	ESHB 3188	Department of labor and industries—Overpayments	1007
244	PV ESHB 2460	Health insurance—Small employers	1014
245	HB 2647	Quality award council	1036
246	SHB 2575	Horse racing commission—Accounts	1037

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
247	PV SHB	2455 Financial literacy	1041
248	SHB	2621 Shellfish licenses	1045
249	ESSB	5428 Driver's licenses—Renewal	1046
250	SB	6614 Unauthorized impounds—Damages.	1053
251	SSB	6107 Quarantined animals	1058
252	SB	6314 Community economic revitalization board	1060
253	SB	6663 Vendor tax—Promoter duties	1065
254	SB	6448 Telephone program excise taxes	1067
255	SB	5869 Nonprofit corporations—Self-insurance risk pools	1073
256	SB	6593 Housing—Consumer choice.	1075
257	SSB	6600 Construction liability	1077
258	SSB	6615 Employment—Developmentally disabled workers	1078
259	SSB	6428 Department of labor and industries—Health care providers ..	1079
260	ESSB	6112 Self-funded multiple employer arrangements	1079
261	SB	6485 Hospitals—Pilot project—Surveys	1094
262	ESSB	6554 Health care providers	1099
263	SSB	6242 Land acquisitions, disposal.	1106
264	PV SSB	6118 Cougar control	1108
265	ESB	6188 Nonprofit corporations	1110
266	SB	6417 Elections—Statute reorganization	1131
267	SSB	6419 Help America vote act	1140
268	PV SB	6493 Elections—Noncharter code cities	1164
269	ESB	6737 Liquor distribution—Price postings.	1166
270	SB	5034 Property tax relief—Senior citizens, disabled persons.	1169
271	PV ESB	6453 Primary elections	1172
272	PV 2SSB	6599 Cholinesterase monitoring	1243
273	3SSB	5412 Identity theft—Biometric matching system	1244
274	ESSB	6481 Horse racing—Parimutuel wagering	1247
275	PV SHB	3103 Higher education	1251
276	PV ESHB	2459 Operating budget	1303
277	PV ESHB	2573 Capital budget.	1467
278	EHB	1777 Home care workers—Collective bargaining	1535

INDEX AND TABLES

TABLES

BILL NO. TO CHAPTER NO.	1539
RCW SECTIONS AFFECTED BY 2004 STATUTES.	1543
UNCODIFIED SESSION LAW SECTIONS AFFECTED BY 2004 STATUTES	1557

SUBJECT INDEX OF 2004 STATUTES	1561
--------------------------------------	------

HISTORY OF STATE MEASURES	1587
---------------------------------	------

CHAPTER 202

[Substitute Senate Bill 6208]

WATER-SEWER CONNECTIONS

AN ACT Relating to temporary water-sewer connections; and amending RCW 57.08.005.

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

Sec. 1. RCW 57.08.005 and 2003 c 394 s 5 are each amended to read as follows:

A district shall have the following powers:

(1) To acquire by purchase or condemnation, or both, all lands, property and property rights, and all water and water rights, both within and without the district, necessary for its purposes. The right of eminent domain shall be exercised in the same manner and by the same procedure as provided for cities and towns, insofar as consistent with this title, except that all assessment or reassessment rolls to be prepared and filed by eminent domain commissioners or commissioners appointed by the court shall be prepared and filed by the district, and the duties devolving upon the city treasurer are imposed upon the county treasurer;

(2) To lease real or personal property necessary for its purposes for a term of years for which that leased property may reasonably be needed;

(3) To construct, condemn and purchase, add to, maintain, and supply waterworks to furnish the district and inhabitants thereof and any other persons, both within and without the district, with an ample supply of water for all uses and purposes public and private with full authority to regulate and control the use, content, distribution, and price thereof in such a manner as is not in conflict with general law and may construct, acquire, or own buildings and other necessary district facilities. Where a customer connected to the district's system uses the water on an intermittent or transient basis, a district may charge for providing water service to such a customer, regardless of the amount of water, if any, used by the customer. District waterworks may include facilities which result in combined water supply and electric generation, if the electricity generated thereby is a byproduct of the water supply system. That electricity may be used by the district or sold to any entity authorized by law to use or distribute electricity. Electricity is deemed a byproduct when the electrical generation is subordinate to the primary purpose of water supply. For such purposes, a district may take, condemn and purchase, acquire, and retain water from any public or navigable lake, river or watercourse, or any underflowing water, and by means of aqueducts or pipeline conduct the same throughout the district and any city or town therein and carry it along and upon public highways, roads, and streets, within and without such district. For the purpose of constructing or laying aqueducts or pipelines, dams, or waterworks or other necessary structures in storing and retaining water or for any other lawful purpose such district may occupy the beds and shores up to the high water mark of any such lake, river, or other watercourse, and may acquire by purchase or condemnation such property or property rights or privileges as may be necessary to protect its water supply from pollution. For the purposes of waterworks which include facilities for the generation of electricity as a byproduct, nothing in this section may be construed to authorize a district to condemn electric generating, transmission, or distribution rights or facilities of entities authorized

by law to distribute electricity, or to acquire such rights or facilities without the consent of the owner;

(4) To purchase and take water from any municipal corporation, private person, or entity. A district contiguous to Canada may contract with a Canadian corporation for the purchase of water and for the construction, purchase, maintenance, and supply of waterworks to furnish the district and inhabitants thereof and residents of Canada with an ample supply of water under the terms approved by the board of commissioners;

(5) To construct, condemn and purchase, add to, maintain, and operate systems of sewers for the purpose of furnishing the district, the inhabitants thereof, and persons outside the district with an adequate system of sewers for all uses and purposes, public and private, including but not limited to on-site sewage disposal facilities, approved septic tanks or approved septic tank systems, on-site sanitary sewerage systems, inspection services and maintenance services for private and public on-site systems, point and nonpoint water pollution monitoring programs that are directly related to the sewerage facilities and programs operated by a district, other facilities, programs, and systems for the collection, interception, treatment, and disposal of wastewater, and for the control of pollution from wastewater with full authority to regulate the use and operation thereof and the service rates to be charged. Under this chapter, after July 1, 1998, any requirements for pumping the septic tank of an on-site sewage system should be based, among other things, on actual measurement of accumulation of sludge and scum by a trained inspector, trained owner's agent, or trained owner. Training must occur in a program approved by the state board of health or by a local health officer. Sewage facilities may include facilities which result in combined sewage disposal or treatment and electric generation, except that the electricity generated thereby is a byproduct of the system of sewers. Such electricity may be used by the district or sold to any entity authorized by law to distribute electricity. Electricity is deemed a byproduct when the electrical generation is subordinate to the primary purpose of sewage disposal or treatment. For such purposes a district may conduct sewage throughout the district and throughout other political subdivisions within the district, and construct and lay sewer pipe along and upon public highways, roads, and streets, within and without the district, and condemn and purchase or acquire land and rights of way necessary for such sewer pipe. A district may erect sewage treatment plants within or without the district, and may acquire, by purchase or condemnation, properties or privileges necessary to be had to protect any lakes, rivers, or watercourses and also other areas of land from pollution from its sewers or its sewage treatment plant. For the purposes of sewage facilities which include facilities that result in combined sewage disposal or treatment and electric generation where the electric generation is a byproduct, nothing in this section may be construed to authorize a district to condemn electric generating, transmission, or distribution rights or facilities of entities authorized by law to distribute electricity, or to acquire such rights or facilities without the consent of the owners;

(6)(a) To construct, condemn and purchase, add to, maintain, and operate systems of drainage for the benefit and use of the district, the inhabitants thereof, and persons outside the district with an adequate system of drainage, including but not limited to facilities and systems for the collection, interception,

treatment, and disposal of storm or surface waters, and for the protection, preservation, and rehabilitation of surface and underground waters, and drainage facilities for public highways, streets, and roads, with full authority to regulate the use and operation thereof and, except as provided in (b) of this subsection, the service rates to be charged.

(b) The rate a district may charge under this section for storm or surface water sewer systems or the portion of the rate allocable to the storm or surface water sewer system of combined sanitary sewage and storm or surface water sewer systems shall be reduced by a minimum of ten percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system. Rainwater harvesting systems shall be properly sized to utilize the available roof surface of the building. The jurisdiction shall consider rate reductions in excess of ten percent dependent upon the amount of rainwater harvested.

(c) Drainage facilities may include natural systems. Drainage facilities may include facilities which result in combined drainage facilities and electric generation, except that the electricity generated thereby is a byproduct of the drainage system. Such electricity may be used by the district or sold to any entity authorized by law to distribute electricity. Electricity is deemed a byproduct when the electrical generation is subordinate to the primary purpose of drainage collection, disposal, and treatment. For such purposes, a district may conduct storm or surface water throughout the district and throughout other political subdivisions within the district, construct and lay drainage pipe and culverts along and upon public highways, roads, and streets, within and without the district, and condemn and purchase or acquire land and rights of way necessary for such drainage systems. A district may provide or erect facilities and improvements for the treatment and disposal of storm or surface water within or without the district, and may acquire, by purchase or condemnation, properties or privileges necessary to be had to protect any lakes, rivers, or watercourses and also other areas of land from pollution from storm or surface waters. For the purposes of drainage facilities which include facilities that also generate electricity as a byproduct, nothing in this section may be construed to authorize a district to condemn electric generating, transmission, or distribution rights or facilities of entities authorized by law to distribute electricity, or to acquire such rights or facilities without the consent of the owners;

(7) To construct, condemn, acquire, and own buildings and other necessary district facilities;

(8) To compel all property owners within the district located within an area served by the district's system of sewers to connect their private drain and sewer systems with the district's system under such penalty as the commissioners shall prescribe by resolution. The district may for such purpose enter upon private property and connect the private drains or sewers with the district system and the cost thereof shall be charged against the property owner and shall be a lien upon property served;

(9) Where a district contains within its borders, abuts, or is located adjacent to any lake, stream, ground water as defined by RCW 90.44.035, or other waterway within the state of Washington, to provide for the reduction, minimization, or elimination of pollutants from those waters in accordance with the district's comprehensive plan, and to issue general obligation bonds, revenue

bonds, local improvement district bonds, or utility local improvement bonds for the purpose of paying all or any part of the cost of reducing, minimizing, or eliminating the pollutants from these waters;

(10) Subject to subsection (6) of this section, to fix rates and charges for water, sewer, and drain service supplied and to charge property owners seeking to connect to the district's systems, as a condition to granting the right to so connect, in addition to the cost of the connection, such reasonable connection charge as the board of commissioners shall determine to be proper in order that those property owners shall bear their equitable share of the cost of the system. For the purposes of calculating a connection charge, the board of commissioners shall determine the pro rata share of the cost of existing facilities and facilities planned for construction within the next ten years and contained in an adopted comprehensive plan and other costs borne by the district which are directly attributable to the improvements required by property owners seeking to connect to the system. The cost of existing facilities shall not include those portions of the system which have been donated or which have been paid for by grants. The connection charge may include interest charges applied from the date of construction of the system until the connection, or for a period not to exceed ten years, whichever is shorter, at a rate commensurate with the rate of interest applicable to the district at the time of construction or major rehabilitation of the system, or at the time of installation of the lines to which the property owner is seeking to connect. In lieu of requiring the installation of permanent local facilities not planned for construction by the district, a district may permit connection to the water and/or sewer systems through temporary facilities installed at the property owner's expense, provided the property owner pays a connection charge consistent with the provisions of this chapter and agrees, in the future, to connect to permanent facilities when they are installed; or a district may permit connection to the water and/or sewer systems through temporary facilities and collect from property owners so connecting a proportionate share of the estimated cost of future local facilities needed to serve the property, as determined by the district. The amount collected, including interest at a rate commensurate with the rate of interest applicable to the district at the time of construction of the temporary facilities, shall be held for contribution to the construction of the permanent local facilities by other developers or the district. The amount collected shall be deemed full satisfaction of the proportionate share of the actual cost of construction of the permanent local facilities. If the permanent local facilities are not constructed within fifteen years of the date of payment, the amount collected, including any accrued interest, shall be returned to the property owner, according to the records of the county auditor on the date of return. If the amount collected is returned to the property owner, and permanent local facilities capable of serving the property are constructed thereafter, the property owner at the time of construction of such permanent local facilities shall pay a proportionate share of the cost of such permanent local facilities, in addition to reasonable connection charges and other charges authorized by this section. A district may permit payment of the cost of connection and the reasonable connection charge to be paid with interest in installments over a period not exceeding fifteen years. The county treasurer may charge and collect a fee of three dollars for each year for the treasurer's services. Those fees shall be a charge to be included as part of each annual installment,

and shall be credited to the county current expense fund by the county treasurer. Revenues from connection charges excluding permit fees are to be considered payments in aid of construction as defined by department of revenue rule. Rates or charges for on-site inspection and maintenance services may not be imposed under this chapter on the development, construction, or reconstruction of property.

Before adopting on-site inspection and maintenance utility services, or incorporating residences into an on-site inspection and maintenance or sewer utility under this chapter, notification must be provided, prior to the applicable public hearing, to all residences within the proposed service area that have on-site systems permitted by the local health officer. The notice must clearly state that the residence is within the proposed service area and must provide information on estimated rates or charges that may be imposed for the service.

A water-sewer district shall not provide on-site sewage system inspection, pumping services, or other maintenance or repair services under this section using water-sewer district employees unless the on-site system is connected by a publicly owned collection system to the water-sewer district's sewerage system, and the on-site system represents the first step in the sewage disposal process.

Except as otherwise provided in RCW 90.03.525, any public entity and public property, including the state of Washington and state property, shall be subject to rates and charges for sewer, water, storm water control, drainage, and street lighting facilities to the same extent private persons and private property are subject to those rates and charges that are imposed by districts. In setting those rates and charges, consideration may be made of in-kind services, such as stream improvements or donation of property;

(11) To contract with individuals, associations and corporations, the state of Washington, and the United States;

(12) To employ such persons as are needed to carry out the district's purposes and fix salaries and any bond requirements for those employees;

(13) To contract for the provision of engineering, legal, and other professional services as in the board of commissioner's discretion is necessary in carrying out their duties;

(14) To sue and be sued;

(15) To loan and borrow funds and to issue bonds and instruments evidencing indebtedness under chapter 57.20 RCW and other applicable laws;

(16) To transfer funds, real or personal property, property interests, or services subject to RCW 57.08.015;

(17) To levy taxes in accordance with this chapter and chapters 57.04 and 57.20 RCW;

(18) To provide for making local improvements and to levy and collect special assessments on property benefitted thereby, and for paying for the same or any portion thereof in accordance with chapter 57.16 RCW;

(19) To establish street lighting systems under RCW 57.08.060;

(20) To exercise such other powers as are granted to water-sewer districts by this title or other applicable laws; and

(21) To exercise any of the powers granted to cities and counties with respect to the acquisition, construction, maintenance, operation of, and fixing rates and charges for waterworks and systems of sewerage and drainage.

Passed by the Senate March 11, 2004.
Passed by the House March 10, 2004.
Approved by the Governor March 29, 2004.
Filed in Office of Secretary of State March 29, 2004.

CHAPTER 203

[Substitute Senate Bill 6286]
OIL TANK LIABILITY

AN ACT Relating to heating oil tank liability protection; amending RCW 70.149.040, 70.149.070, 70.149.080, and 82.23A.010; and providing an effective date.

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

Sec. 1. RCW 70.149.040 and 1997 c 8 s 1 are each amended to read as follows:

The director shall:

(1) Design a program for providing pollution liability insurance for heating oil tanks that provides up to sixty thousand dollars per occurrence coverage and aggregate limits, and protects the state of Washington from unwanted or unanticipated liability for accidental release claims;

(2) Administer, implement, and enforce the provisions of this chapter. To assist in administration of the program, the director is authorized to appoint up to two employees who are exempt from the civil service law, chapter 41.06 RCW, and who shall serve at the pleasure of the director;

(3) Administer the heating oil pollution liability trust account, as established under RCW 70.149.070;

(4) Employ and discharge, at his or her discretion, agents, attorneys, consultants, companies, organizations, and employees as deemed necessary, and to prescribe their duties and powers, and fix their compensation;

(5) Adopt rules under chapter 34.05 RCW as necessary to carry out the provisions of this chapter;

(6) Design and from time to time revise a reinsurance contract providing coverage to an insurer or insurers meeting the requirements of this chapter. The director is authorized to provide reinsurance through the pollution liability insurance program trust account;

(7) Solicit bids from insurers and select an insurer to provide pollution liability insurance for third-party bodily injury and property damage, and corrective action to owners and operators of heating oil tanks;

(8) Register, and design a means of accounting for, operating heating oil tanks;

(9) Implement a program to provide advice and technical assistance to owners and operators of active and abandoned heating oil tanks if contamination from an active or abandoned heating oil tank is suspected. Advice and assistance regarding administrative and technical requirements may include observation of testing or site assessment and review of the results of reports. If the director finds that contamination is not present or that the contamination is apparently minor and not a threat to human health or the environment, the director may provide written opinions and conclusions on the results of the investigation to owners and operators of active and abandoned heating oil tanks. The agency is authorized to collect, from persons requesting advice and

assistance, the costs incurred by the agency in providing such advice and assistance. The costs may include travel costs and expenses associated with review of reports and preparation of written opinions and conclusions. Funds from cost reimbursement must be deposited in the heating oil pollution liability trust account. The state of Washington, the pollution liability insurance agency, and its officers and employees are immune from all liability, and no cause of action arises from any act or omission in providing, or failing to provide, such advice, opinion, conclusion, or assistance; ~~((and))~~

(10) Establish a public information program to provide information regarding liability, technical, and environmental requirements associated with active and abandoned heating oil tanks;

(11) Monitor agency expenditures and seek to minimize costs and maximize benefits to ensure responsible financial stewardship;

(12) Create an advisory committee of stakeholders to advise the director on all aspects of program operations and fees authorized by this chapter, including pollution prevention programs. The advisory committee must have one member each from the Pacific Northwest oil heat council, the Washington oil marketers association, the western states petroleum association, and the department of ecology and three members from among the owners of home heating oil tanks registered with the pollution liability insurance agency who are generally representative of the geographical distribution and types of registered owners. The committee should meet at least quarterly, or more frequently at the discretion of the director; and

(13) Study if appropriate user fees to supplement program funding are necessary and develop recommendations for legislation to authorize such fees.

Sec. 2. RCW 70.149.070 and 1997 c 8 s 2 are each amended to read as follows:

(1) The heating oil pollution liability trust account is created in the custody of the state treasurer. All receipts from the pollution liability insurance fee collected under RCW 70.149.080 and reinsurance premiums shall be deposited into the account. Expenditures from the account may be used only for the purposes set out under this chapter. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. Any residue in the account in excess of funds needed to meet administrative costs for January of the following year shall be transferred at the end of the ~~((biennium))~~ calendar year to the pollution liability insurance program trust account.

(2) Money in the account may be used by the director for the following purposes:

- (a) Corrective action costs;
- (b) Third-party liability claims;
- (c) Costs associated with claims administration;
- (d) Purchase of an insurance policy to cover all registered heating oil tanks, and reinsurance of the policy; and
- (e) Administrative expenses of the program, including personnel, equipment, supplies, and providing advice and technical assistance.

Sec. 3. RCW 70.149.080 and 1995 c 20 s 8 are each amended to read as follows:

(1) A pollution liability insurance fee of ~~((six-tenths-of-one))~~ one and two-tenths cents per gallon of heating oil purchased within the state shall be imposed on every special fuel dealer, as the term is defined in chapter 82.38 RCW, making sales of heating oil to a user or consumer.

(2) The pollution liability insurance fee shall be remitted by the special fuel dealer to the department of licensing ~~((with payment of the special fuel dealer tax)).~~

(3) The fee proceeds shall be used for the specific regulatory purposes of this chapter.

(4) The fee imposed by this section shall not apply to heating oil exported or sold for export from the state.

Sec. 4. RCW 82.23A.010 and 1989 c 383 s 15 are each amended to read as follows:

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

(1) "Petroleum product" means plant condensate, lubricating oil, gasoline, aviation fuel, kerosene, diesel motor fuel, benzol, fuel oil, residual oil, ~~((liquefied or liquefiable gases such as butane, ethane, and propane,))~~ and every other product derived from the refining of crude oil, but the term does not include crude oil or liquefiable gases.

(2) "Possession" means the control of a petroleum product located within this state and includes both actual and constructive possession. "Actual possession" occurs when the person with control has physical possession. "Constructive possession" occurs when the person with control does not have physical possession. "Control" means the power to sell or use a petroleum product or to authorize the sale or use by another.

(3) "Previously taxed petroleum product" means a petroleum product in respect to which a tax has been paid under this chapter and that has not been remanufactured or reprocessed in any manner (other than mere repackaging or recycling for beneficial reuse) since the tax was paid.

(4) "Wholesale value" means fair market wholesale value, determined as nearly as possible according to the wholesale selling price at the place of use of similar products of like quality and character, in accordance with rules of the department.

(5) Except for terms defined in this section, the definitions in chapters 82.04, 82.08, and 82.12 RCW apply to this chapter.

NEW SECTION. Sec. 5. Section 3 of this act takes effect July 1, 2004.

Passed by the Senate March 8, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.

CHAPTER 204

[Substitute Senate Bill 5590]

ENVIRONMENTAL APPEALS PERIOD

AN ACT Relating to determining the appeals period for certain environmental appeals; amending RCW 43.21B.001, 43.21B.190, 43.21B.230, and 43.21B.300; and reenacting and amending RCW 43.21B.310.

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

Sec. 1. RCW 43.21B.001 and 1987 c 109 s 4 are each amended to read as follows:

~~((As used in))~~ The definitions in this section apply throughout this chapter~~((;))~~ unless the context clearly requires otherwise.

(1) "Business days" means Monday through Friday exclusive of any state or federal holiday.

(2) "Date of receipt" means:

(a) Five business days after the date of mailing; or

(b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the agency, shall constitute sufficient evidence of actual receipt. The date of actual receipt, however, may not exceed forty-five days from the date of mailing.

(3) "Department" means the department of ecology~~((, and))~~.

(4) "Director" means the director of ecology.

Sec. 2. RCW 43.21B.190 and 1995 c 382 s 4 are each amended to read as follows:

~~((Within thirty days))~~ After the final decision and order of the hearings board ~~((upon such an appeal))~~ has been ~~((communicated to))~~ received by the ~~((interested))~~ parties, (such interested) any party aggrieved by the decision and order of the hearings board may appeal to the superior court within thirty days from the date of receipt of the final decision and order.

Sec. 3. RCW 43.21B.230 and 1997 c 125 s 2 are each amended to read as follows:

Consistent with RCW 43.21B.110, any person having received notice of ~~((a))~~ denial of a petition, a notice of determination, or notice of ~~((or))~~ an order made by the department may appeal to the hearings board, within thirty days from the date of receipt of the notice of such denial, order, or determination ~~((is posted in the United States mail, properly addressed, postage prepaid, to))~~ by the appealing party. The appeal shall be perfected by serving a copy of the notice of appeal upon the department or air pollution authority established pursuant to chapter 70.94 RCW, as the case may be, within the time specified herein and by filing the original thereof with proof of service with the clerk of the hearings board.

Sec. 4. RCW 43.21B.300 and 2001 c 36 s 2 are each amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and 90.56.330 shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable

particularity. Within (~~fifteen~~) thirty days after the notice is received, the person incurring the penalty may apply in writing to the department or the authority for the remission or mitigation of the penalty. Upon receipt of the application, the department or authority may remit or mitigate the penalty upon whatever terms the department or the authority in its discretion deems proper. The department or the authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority thirty days after the date of receipt by the person penalized of the notice imposing the penalty or thirty days after the date of receipt of the notice of disposition of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

(a) Thirty days after receipt of the notice imposing the penalty;

(b) Thirty days after receipt of the notice of disposition on application for relief from penalty, if such an application is made; or

(c) Thirty days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within thirty days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70.94.431, the disposition of which shall be governed by that provision, RCW 70.105.080, which shall be credited to the hazardous waste control and elimination account, created by RCW 70.105.180, and RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390.

Sec. 5. RCW 43.21B.310 and 2001 c 220 s 4 and 2001 c 36 s 3 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 90.03.210(2), any order issued by the department or local air authority pursuant to RCW 70.94.211, 70.94.332, 70.105.095, 43.27A.190, 86.16.020, 88.46.070, or 90.48.120(2) or any provision enacted after July 26, 1987, or any permit, certificate, or license issued by the department may be appealed to the pollution control hearings board if the appeal is filed with the board and served on the department or authority within thirty days after the date of receipt of the order. Except as provided under chapter

70.105D RCW and RCW 90.03.210(2), this is the exclusive means of appeal of such an order.

(2) The department or the authority in its discretion may stay the effectiveness of an order during the pendency of such an appeal.

(3) At any time during the pendency of an appeal of such an order to the board, the appellant may apply pursuant to RCW 43.21B.320 to the hearings board for a stay of the order or for the removal thereof.

(4) Any appeal must contain the following in accordance with the rules of the hearings board:

(a) The appellant's name and address;

(b) The date and docket number of the order, permit, or license appealed;

(c) A description of the substance of the order, permit, or license that is the subject of the appeal;

(d) A clear, separate, and concise statement of every error alleged to have been committed;

(e) A clear and concise statement of facts upon which the requester relies to sustain his or her statements of error; and

(f) A statement setting forth the relief sought.

(5) Upon failure to comply with any final order of the department, the attorney general, on request of the department, may bring an action in the superior court of the county where the violation occurred or the potential violation is about to occur to obtain such relief as necessary, including injunctive relief, to insure compliance with the order. The air authorities may bring similar actions to enforce their orders.

(6) An appealable decision or order shall be identified as such and shall contain a conspicuous notice to the recipient that it may be appealed only by filing an appeal with the hearings board and serving it on the department within thirty days of the date of receipt.

Passed by the Senate February 13, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.

CHAPTER 205

[Senate Bill 5376]

STATE ROUTE 99

AN ACT Relating to the alignment of state route number 99; and amending RCW 47.17.160.

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

Sec. 1. RCW 47.17.160 and 1979 ex.s. c 33 s 4 are each amended to read as follows:

A state highway to be known as state route number 99 is established as follows:

Beginning at a junction with state route number 18 in the vicinity of Federal Way, thence northerly by way of Midway, to a junction with state route 518 in Tukwila; also

Beginning at a junction with state route number 599 in the vicinity of Tukwila, thence northerly by way of Seattle, Edmonds, and Lynnwood to a

junction with state route number 5 in Everett: PROVIDED, That until state route number 509 is constructed and opened to traffic on an anticipated ultimate alignment from a junction with state route number 705 in Tacoma via the Port of Tacoma industrial area to a junction with state route number 18 in the vicinity of Federal Way that portion of state route number 99 between state route number 5 at Fife and state route number 18 in the vicinity of Federal Way shall remain on the state highway system.

Passed by the Senate February 12, 2004.

Passed by the House March 5, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.

CHAPTER 206

[Substitute Senate Bill 6367]

NATIONAL HISTORICAL RESERVES

AN ACT Relating to protecting the integrity of national historical reserves in the urban growth area planning process; and amending RCW 36.70A.110.

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

Sec. 1. RCW 36.70A.110 and 2003 c 299 s 5 are each amended to read as follows:

(1) Each county that is required or chooses to plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city. An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth whether or not the urban growth area includes a city, or is adjacent to territory already characterized by urban growth, or is a designated new fully contained community as defined by RCW 36.70A.350.

(2) Based upon the growth management population projection made for the county by the office of financial management, the county and each city within the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding twenty-year period, except for those urban growth areas contained totally within a national historical reserve.

Each urban growth area shall permit urban densities and shall include greenbelt and open space areas. In the case of urban growth areas contained totally within a national historical reserve, the city may restrict densities, intensities, and forms of urban growth as determined to be necessary and appropriate to protect the physical, cultural, or historic integrity of the reserve. An urban growth area determination may include a reasonable land market supply factor and shall permit a range of urban densities and uses. In determining this market factor, cities and counties may consider local circumstances. Cities and counties have discretion in their comprehensive plans to make many choices about accommodating growth.

Within one year of July 1, 1990, each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040, shall begin consulting with each city located within its boundaries and each city shall propose the location of an urban growth area. Within sixty days of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall begin this consultation with each city located within its boundaries. The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located. If such an agreement is not reached with each city located within the urban growth area, the county shall justify in writing why it so designated the area an urban growth area. A city may object formally with the department over the designation of the urban growth area within which it is located. Where appropriate, the department shall attempt to resolve the conflicts, including the use of mediation services.

(3) Urban growth should be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served adequately by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources, and third in the remaining portions of the urban growth areas. Urban growth may also be located in designated new fully contained communities as defined by RCW 36.70A.350.

(4) In general, cities are the units of local government most appropriate to provide urban governmental services. In general, it is not appropriate that urban governmental services be extended to or expanded in rural areas except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development.

(5) On or before October 1, 1993, each county that was initially required to plan under RCW 36.70A.040(1) shall adopt development regulations designating interim urban growth areas under this chapter. Within three years and three months of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall adopt development regulations designating interim urban growth areas under this chapter. Adoption of the interim urban growth areas may only occur after public notice; public hearing; and compliance with the state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110. Such action may be appealed to the appropriate growth management hearings board under RCW 36.70A.280. Final urban growth areas shall be adopted at the time of comprehensive plan adoption under this chapter.

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

(7) An urban growth area designated in accordance with this section may include within its boundaries urban service areas or potential annexation areas designated for specific cities or towns within the county.

Passed by the Senate February 11, 2004.

Passed by the House March 5, 2004.

Approved by the Governor March 29, 2004.
Filed in Office of Secretary of State March 29, 2004.

CHAPTER 207

[Senate Bill 6237]

AGRICULTURAL USE PRESERVATION

AN ACT Relating to providing nonagricultural commercial and retail uses that support and sustain agricultural operations on designated agricultural lands of long-term significance; and amending RCW 36.70A.177.

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

Sec. I. RCW 36.70A.177 and 1997 c 429 s 23 are each amended to read as follows:

(1) A county or a city may use a variety of innovative zoning techniques in areas designated as agricultural lands of long-term commercial significance under RCW 36.70A.170. The innovative zoning techniques should be designed to conserve agricultural lands and encourage the agricultural economy. A county or city should encourage nonagricultural uses to be limited to lands with poor soils or otherwise not suitable for agricultural purposes.

(2) Innovative zoning techniques a county or city may consider include, but are not limited to:

(a) Agricultural zoning, which limits the density of development and restricts or prohibits nonfarm uses of agricultural land and may allow accessory uses that support, promote, or sustain agricultural operations and production, as provided in subsection (3) of this section;

(b) Cluster zoning, which allows new development on one portion of the land, leaving the remainder in agricultural or open space uses;

(c) Large lot zoning, which establishes as a minimum lot size the amount of land necessary to achieve a successful farming practice;

(d) Quarter/quarter zoning, which permits one residential dwelling on a one-acre minimum lot for each one-sixteenth of a section of land; and

(e) Sliding scale zoning, which allows the number of lots for single-family residential purposes with a minimum lot size of one acre to increase inversely as the size of the total acreage increases.

(3)(a) Accessory uses allowed under subsection (2)(a) of this section shall comply with the following:

(i) Accessory uses shall be located, designed, and operated so as not to interfere with natural resource land uses and shall be accessory to the growing of crops or raising of animals;

(ii) Accessory commercial or retail uses shall predominately produce, store, or sell regionally produced agricultural products from one or more producers, products derived from regional agricultural production, agriculturally related experiences, or products produced on-site. Accessory commercial and retail uses shall offer for sale predominantly products or services produced on-site; and

(iii) Accessory uses may operate out of existing or new buildings with parking and other supportive uses consistent with the size and scale of existing agricultural buildings on the site but shall not otherwise convert agricultural land to nonagricultural uses.

(b) Accessory uses may include compatible commercial or retail uses including, but not limited to:

(i) Storage and refrigeration of regional agricultural products;

(ii) Production, sales, and marketing of value-added agricultural products derived from regional sources;

(iii) Supplemental sources of on-farm income that support and sustain on-farm agricultural operations and production;

(iv) Support services that facilitate the production, marketing, and distribution of agricultural products; and

(v) Off-farm and on-farm sales and marketing of predominately regional agricultural products and experiences, locally made art and arts and crafts, and ancillary retail sales or service activities.

Passed by the Senate February 12, 2004.

Passed by the House March 4, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.

CHAPTER 208

[Substitute Senate Bill 6534]

INDUSTRIAL LAND BANKS

AN ACT Relating to the siting and designating processes of industrial land banks; and amending RCW 36.70A.367.

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

Sec. 1. RCW 36.70A.367 and 2003 c 88 s 1 are each amended to read as follows:

(1) In addition to the major industrial development allowed under RCW 36.70A.365, a county planning under RCW 36.70A.040 that meets the criteria in subsection ~~((9))~~ (10) or ~~((10))~~ (11) of this section may establish, in consultation with cities consistent with provisions of RCW 36.70A.210, a process for designating a bank of no more than two master planned locations for major industrial activity outside urban growth areas.

(2) A master planned location for major industrial developments outside an urban growth area may be included in the urban industrial land bank for the county if criteria including, but not limited to, the following are met through the completion of a comprehensive planning process that ensures that:

(a) Development regulations are adopted to ensure that urban growth will not occur in adjacent nonurban areas;

(b) The master plan for the major industrial developments is consistent with the county's development regulations adopted for protection of critical areas;

(c) An inventory of developable land has been conducted as provided in RCW 36.70A.365;

(d) Provisions are established for determining the availability of alternate sites within urban growth areas and the long-term annexation feasibility of land sites outside of urban growth areas; and

(e) Development regulations are adopted to require the industrial land bank site to be used primarily for locating industrial and manufacturing businesses and specify that the gross floor area of all commercial and service buildings or

facilities locating within the industrial land bank shall not exceed ten percent of the total gross floor area of buildings or facilities in the industrial land bank. The commercial and service businesses operated within the ten percent gross floor area limit shall be necessary to the primary industrial or manufacturing businesses within the industrial land bank. The intent of this provision for commercial or service use is to meet the needs of employees, clients, customers, vendors, and others having business at the industrial site and as an adjunct to the industry to attract and retain a quality work force and to further other public objectives, such as trip reduction. Such uses would not be promoted to attract additional clientele from the surrounding area. The commercial and service businesses should be established concurrently with or subsequent to the industrial or manufacturing businesses.

(3) The process for reviewing and approving proposals to authorize siting of specific major industrial developments within an approved industrial land bank must ensure through adopted development regulations that:

(a) New infrastructure is provided for and/or applicable impact fees are paid;

(b) Transit-oriented site planning and traffic demand management programs are implemented;

(c) Buffers are provided between the major industrial development and adjacent nonurban areas;

(d) Environmental protection including air and water quality has been addressed and provided for;

(e) ((Development regulations are established to ensure that urban growth will not occur in adjacent nonurban areas;

(f)) Provision is made to mitigate adverse impacts on designated agricultural lands, forest lands, and mineral resource lands; and

((g) The plan for the major industrial development is consistent with the county's development regulations established for protection of critical areas;

(h) An inventory of developable land has been conducted as provided in RCW 36.70A.365;

(i)) (f) An interlocal agreement related to infrastructure cost sharing and revenue sharing between the county and interested cities ((are—is)) is established((;

(j) Provisions are established for determining the availability of alternate sites within urban growth areas and the long-term annexation feasibility of land sites outside of urban growth areas; and

(k) Development regulations require the industrial land bank site to be used primarily for locating industrial and manufacturing businesses and specify that the gross floor area of all commercial and service buildings or facilities locating within the industrial land bank shall not exceed ten percent of the total gross floor area of buildings or facilities in the industrial land bank. The commercial and service businesses operated within the ten percent gross floor area limit shall be necessary to the primary industrial or manufacturing businesses within the industrial land bank. The intent of this provision for commercial or service use is to meet the needs of employees, clients, customers, vendors, and others having business at the industrial site and as an adjunct to the industry to attract and retain a quality work force and to further other public objectives, such as trip reduction. Such uses would not be promoted to attract additional clientele from

~~the surrounding area. The commercial and service businesses should be established concurrently with or subsequent to the industrial or manufacturing businesses).~~

~~((3))~~ (4) In selecting master planned locations for inclusion in the urban industrial land bank, priority shall be given to locations that are adjacent to, or in close proximity to, an urban growth area.

~~((4))~~ (5) Final approval of inclusion of a master planned location in ~~(the)~~ an urban industrial land bank under subsection (2) of this section shall be considered an adopted amendment to the comprehensive plan adopted pursuant to RCW 36.70A.070, except that RCW 36.70A.130(2) does not apply so that inclusion or exclusion of master planned locations may be considered at any time. Approval of specific development proposals under subsection (3) of this section requires no further comprehensive plan amendment.

~~((5))~~ (6) Once a master planned location has been included in ~~(the)~~ an urban industrial land bank, manufacturing and industrial businesses that qualify as major industrial development under RCW 36.70A.365 may be located there.

~~((6))~~ (7) Nothing in this section ~~((may be construed to))~~ alters the requirements for a county to comply with chapter 43.21C RCW.

~~((7))~~ (8)(a) The authority of a county meeting the criteria of subsection ~~((9))~~ (10) of this section to engage in the process of including or excluding master planned locations from ~~(the)~~ an urban industrial land bank ~~((shall))~~ terminates on December 31, 2007. However, any location included in ~~(the)~~ an urban industrial land bank on or before December 31, 2007, shall be available for major industrial development as long as the criteria of subsection (2) of this section are met. A county that has established or proposes to establish an industrial land bank pursuant to this section shall review the need for an industrial land bank within the county, including a review of the availability of land for industrial and manufacturing uses within the urban growth area, during the review and evaluation of comprehensive plans and development regulations required by RCW 36.70A.130.

(b) The authority of a county meeting the criteria of subsection ~~((10))~~ (11) of this section to engage in the process of including or excluding master planned locations from the urban industrial land bank terminates on December 31, 2002. However, any location included in the urban industrial land bank on December 31, 2002, shall be available for major industrial development as long as the criteria of subsection (2) of this section are met.

~~((8))~~ (9) For the purposes of this section~~(,):~~:

(a) "Major industrial development" means a master planned location suitable for manufacturing or industrial businesses that: ~~((a))~~ (i) Requires a parcel of land so large that no suitable parcels are available within an urban growth area; ~~((or (b))~~ (ii) is a natural resource-based industry requiring a location near agricultural land, forest land, or mineral resource land upon which it is dependent; or ~~((c))~~ (iii) requires a location with characteristics such as proximity to transportation facilities or related industries such that there is no suitable location in an urban growth area. The major industrial development may not be for the purpose of retail commercial development or multitenant office parks.

~~((9))~~ (b) "Industrial land bank" means up to two master planned locations, each consisting of a parcel or parcels of contiguous land, sufficiently large so as

not to be readily available within the urban growth area of a city, or otherwise meeting the criteria contained in (a) of this subsection, suitable for manufacturing, industrial, or commercial businesses and designated by the county through the comprehensive planning process specifically for major industrial use.

~~(10)~~ This section and the termination date specified in subsection ~~((7))~~ ~~(8)~~(a) of this section apply to a county that at the time the process is established under subsection (1) of this section:

(a) Has a population greater than two hundred fifty thousand and is part of a metropolitan area that includes a city in another state with a population greater than two hundred fifty thousand;

(b) Has a population greater than one hundred forty thousand and is adjacent to another country;

(c) Has a population greater than forty thousand but less than seventy-five thousand and has an average level of unemployment for the preceding three years that exceeds the average state unemployment for those years by twenty percent; and

(i) Is bordered by the Pacific Ocean;

(ii) Is located in the Interstate 5 or Interstate 90 corridor; or

(iii) Is bordered by Hood Canal;

(d) Is east of the Cascade divide; and

(i) Borders another state to the south; or

(ii) Is located wholly south of Interstate 90 and borders the Columbia river to the east; or

(e) Has an average population density of less than one hundred persons per square mile as determined by the office of financial management, and is bordered by the Pacific Ocean and by Hood Canal.

~~((10))~~ ~~((7))~~ ~~(8)~~(b) This section and the termination date specified in subsection ~~((7))~~ ~~(8)~~(b) of this section apply to a county that at the time the process is established under subsection (1) of this section:

(a) Has a population greater than forty thousand but fewer than eighty thousand;

(b) Has an average level of unemployment for the preceding three years that exceeds the average state unemployment for those years by twenty percent; and

(c) Is located in the Interstate 5 or Interstate 90 corridor.

~~((11))~~ ~~(12)~~ Any location included in an industrial land bank pursuant to section 2, chapter 289, Laws of 1998, section 1, chapter 402, Laws of 1997, and section 2, chapter 167, Laws of 1996 shall remain available for major industrial development according to this section as long as the criteria of subsection (2) of this section continue to be satisfied.

Passed by the Senate February 16, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.

CHAPTER 209

[Senate Bill 6488]

AGRICULTURAL LAND DESIGNATION

AN ACT Relating to a study of the designation of agricultural lands; and creating a new section.

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

NEW SECTION. Sec. 1. (1) By December 1, 2004, the department of community, trade, and economic development shall provide to the house of representatives local government committee and the senate committee on land use and planning a report regarding the designation pursuant to RCW 36.70A.170(1)(a) of agricultural lands with long-term commercial significance in King, Chelan, Lewis, and Yakima counties.

(2) The report shall address:

(a) The amount of land designated as agricultural lands with long-term commercial significance;

(b) The amount of land in agricultural production;

(c) Changes in the amount of agricultural land since 1990;

(d) Comparison with amounts of land in other uses;

(e) Designation standards and procedures;

(f) Effect of designation on tax revenue;

(g) Contribution of agriculture to the local economy;

(h) Threats to maintaining the agricultural land base;

(i) Measures local governments should adopt to better maintain the agricultural land base and sustain and enhance the agricultural industry; and

(j) Any other type of information that will help the committees to evaluate the implementation and effect of designation.

Passed by the Senate March 9, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.

CHAPTER 210

[Senate Bill 6476]

MANUFACTURED HOUSING COMMUNITIES

AN ACT Relating to designating manufactured housing communities as nonconforming uses; adding a new section to chapter 35.63 RCW; adding a new section to chapter 35A.63 RCW; and adding a new section to chapter 36.70 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 35.63 RCW to read as follows:

After the effective date of this act, a city may designate a new manufactured housing community as a nonconforming use, but may not order the removal or phased elimination of an existing manufactured housing community because of its status as a nonconforming use.

NEW SECTION. Sec. 2. A new section is added to chapter 35A.63 RCW to read as follows:

After the effective date of this act, a code city may designate a manufactured housing community as a nonconforming use, but may not order the removal or phased elimination of an existing manufactured housing community because of its status as a nonconforming use.

NEW SECTION. Sec. 3. A new section is added to chapter 36.70 RCW to read as follows:

After the effective date of this act, a county may designate a manufactured housing community as a nonconforming use, but may not order the removal or phased elimination of an existing manufactured housing community because of its status as a nonconforming use.

Passed by the Senate February 17, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.

CHAPTER 211

[Engrossed Substitute Senate Bill 6731]

ASPARAGUS STANDARDS EXCEPTION

AN ACT Relating to standards and grades for fruits and vegetables; amending RCW 15.17.050; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 15.17.050 and 1998 c 154 s 4 are each amended to read as follows:

(1) The director shall adopt rules providing standards for apples, apricots, Italian prunes, peaches, sweet cherries, pears, potatoes, and asparagus, except for asparagus shipped out-of-state for fresh packing, and may adopt rules providing standards for any other fruit or vegetable. When establishing these standards, the director shall consider the factors of maturity, soundness, color, shape, size, and freedom from mechanical and plant pest injury and other factors important to marketing.

(2) The director shall adopt rules providing for mandatory inspection of apples, apricots, Italian prunes, peaches, sweet cherries, pears, and asparagus and may adopt rules providing for mandatory inspection of any other fruit or vegetable.

(3) The director may adopt rules:

(a) Fixing the sizes and dimensions of containers to be used for the packing or handling of any fruits or vegetables; and

(b) Establishing combination grades for fruits and vegetables. The standards for combination grades shall, by percentage quantities, include two or more of the grades provided for under this chapter.

NEW SECTION. Sec. 2. Section 1 of this act expires December 31, 2005.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate February 17, 2004.

Passed by the House March 2, 2004.

Approved by the Governor March 29, 2004.
 Filed in Office of Secretary of State March 29, 2004.

CHAPTER 212

[Senate Bill 6339]

SEED-RELATED BUSINESS PRACTICES

AN ACT Relating to seed-related business practices; and amending RCW 20.01.010, 20.01.210, and 20.01.465.

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

Sec. 1. RCW 20.01.010 and 2003 c 395 s 1 are each amended to read as follows:

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

(1) "Director" means the director of agriculture or a duly authorized representative.

(2) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member, officer, or employee thereof or assignee for the benefit of creditors.

(3) "Agricultural product" means any unprocessed horticultural, vermicultural and its byproducts, viticultural, berry, poultry, poultry product, grain, bee, or other agricultural products(~~and~~). "Agricultural product" also includes (a) mint or mint oil processed by or for the producer thereof ((and)), hay and straw baled or prepared for market in any manner or form and livestock; and (b) agricultural seed, flower seed, vegetable seed, other crop seed, and seeds, as defined in chapter 15.49 RCW, however, any disputes regarding responsibilities for seed clean out are governed exclusively by contracts between the producers of the seed and conditioners or processors of the seed.

(4) "Producer" means any person engaged in the business of growing or producing any agricultural product, whether as the owner of the products, or producing the products for others holding the title thereof.

(5) "Consignor" means any producer, person, or his agent who sells, ships, or delivers to any commission merchant, dealer, cash buyer, or agent, any agricultural product for processing, handling, sale, or resale.

(6) "Commission merchant" means any person who receives on consignment for sale or processing and sale from the consignor thereof any agricultural product for sale on commission on behalf of the consignor, or who accepts any farm product in trust from the consignor thereof for the purpose of resale, or who sells or offers for sale on commission any agricultural product, or who in any way handles for the account of or as an agent of the consignor thereof, any agricultural product.

(7) "Dealer" means any person other than a cash buyer, as defined in subsection (10) of this section, who solicits, contracts for, or obtains from the consignor thereof for reselling or processing, title, possession, or control of any agricultural product, or who buys or agrees to buy any agricultural product from the consignor thereof for sale or processing and includes any person, other than one who acts solely as a producer, who retains title in an agricultural product and delivers it to a producer for further production or increase. For the purposes of this chapter, the term dealer includes any person who purchases livestock on

behalf of and for the account of another, or who purchases cattle in another state or country and imports these cattle into this state for resale.

(8) "Limited dealer" means any person who buys, agrees to buy, or pays for the production or increase of any agricultural product by paying to the consignor at the time of obtaining possession or control of any agricultural product the full agreed price of the agricultural product and who operates under the alternative bonding provision in RCW 20.01.211.

(9) "Broker" means any person other than a commission merchant, dealer, or cash buyer who negotiates the purchase or sale of any agricultural product, but no broker may handle the agricultural products involved or proceeds of the sale.

(10) "Cash buyer" means any person other than a commission merchant, dealer, or broker, who obtains from the consignor thereof for the purpose of resale or processing, title, possession, or control of any agricultural product or who contracts for the title, possession, or control of any agricultural product, or who buys or agrees to buy for resale any agricultural product by paying to the consignor at the time of obtaining possession or control of any agricultural product the full agreed price of the agricultural product, in coin or currency, lawful money of the United States. However, a cashier's check, certified check, credit card, or bankdraft may be used for the payment. For the purposes of this subsection, "agricultural product," does not include hay, grain, straw, or livestock.

(11) "Agent" means any person who, on behalf of any commission merchant, dealer, broker, or cash buyer, acts as liaison between a consignor and a principal, or receives, contracts for, or solicits any agricultural product from the consignor thereof or who negotiates the consignment or purchase of any agricultural product on behalf of any commission merchant, dealer, broker, or cash buyer and who transacts all or a portion of that business at any location other than at the principal place of business of his employer. With the exception of an agent for a commission merchant or dealer handling horticultural products, an agent may operate only in the name of one principal and only to the account of that principal.

(12) "Retail merchant" means any person operating from a bona fide or established place of business selling agricultural products twelve months of each year.

(13) "Fixed or established place of business" for the purpose of this chapter means any permanent warehouse, building, or structure, at which necessary and appropriate equipment and fixtures are maintained for properly handling those agricultural products generally dealt in, and at which supplies of the agricultural products being usually transported are stored, offered for sale, sold, delivered, and generally dealt with in quantities reasonably adequate for and usually carried for the requirements of such a business, and that is recognized as a permanent business at such place, and carried on as such in good faith and not for the purpose of evading this chapter, and where specifically designated personnel are available to handle transactions concerning those agricultural products generally dealt in, which personnel are available during designated and appropriate hours to that business, and shall not mean a residence, barn, garage, tent, temporary stand or other temporary quarters, any railway car, or permanent quarters occupied pursuant to any temporary arrangement.

(14) "Processor" means any person, firm, company, or other organization that purchases agricultural crops from a consignor and that cans, freezes, dries, dehydrates, cooks, presses, powders, or otherwise processes those crops in any manner whatsoever for eventual resale.

(15) "Pooling contract" means any written agreement whereby a consignor delivers a horticultural product to a commission merchant under terms whereby the commission merchant may commingle the consignor's horticultural products for sale with others similarly agreeing, which must include all of the following:

(a) A delivery receipt for the consignor that indicates the variety of horticultural product delivered, the number of containers, or the weight and tare thereof;

(b) Horticultural products received for handling and sale in the fresh market shall be accounted for to the consignor with individual pack-out records that shall include variety, grade, size, and date of delivery. Individual daily packing summaries shall be available within forty-eight hours after packing occurs. However, platform inspection shall be acceptable by mutual contract agreement on small deliveries to determine variety, grade, size, and date of delivery;

(c) Terms under which the commission merchant may use his judgment in regard to the sale of the pooled horticultural product;

(d) The charges to be paid by the consignor as filed with the state of Washington;

(e) A provision that the consignor shall be paid for his pool contribution when the pool is in the process of being marketed in direct proportion, not less than eighty percent of his interest less expenses directly incurred, prior liens, and other advances on the grower's crop unless otherwise mutually agreed upon between grower and commission merchant.

(16) "Date of sale" means the date agricultural products are delivered to the person buying the products.

(17) "Conditioner" means any person, firm, company, or other organization that receives ((turf, forage, or vegetable)) seeds from a consignor for drying or cleaning.

(18) "Seed bailment contract" means any contract meeting the requirements of chapter 15.48 RCW.

(19) "Proprietary seed" means any seed that is protected under the Federal Plant Variety Protection Act.

(20) "Licensed public weighmaster" means any person, licensed under the provisions of chapter 15.80 RCW, who weighs, measures, or counts any commodity or thing and issues therefor a signed certified statement, ticket, or memorandum of weight, measure, or count upon which the purchase or sale of any commodity or upon which the basic charge of payment for services rendered is based.

(21) "Certified weight" means any signed certified statement or memorandum of weight, measure or count issued by a licensed public weighmaster in accordance with the provisions of chapter 15.80 RCW.

(22) "Licensee" means any person or business licensed under this chapter as a commission merchant, dealer, limited dealer, broker, cash buyer, or agent.

(23) "Seed" means agricultural seed, flower seed, vegetable seed, other crop seed, and seeds, as defined in chapter 15.49 RCW.

(24) "Seed clean out" means the process of removing impurities from raw seed product.

Sec. 2. RCW 20.01.210 and 1991 c 109 s 18 are each amended to read as follows:

(1) Before the license is issued to any commission merchant or dealer, or both, the applicant shall execute and deliver to the director a surety bond executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. ~~((Said))~~ The bond shall be to the state for the benefit of qualified consignors of agricultural products in this state. All such sureties on a bond, as provided ~~((herein))~~ in this section, shall be released and discharged from all liability to the state accruing on such bond by giving notice to the principal and the director by certified mail. Upon receipt of such notice the director shall notify the surety and the principal of the effective date of termination which shall be thirty days from the receipt of such notice by the director, but this shall not relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration period provided for ~~((above))~~ in this subsection.

(2) The bond for a commission merchant or dealer in hay, straw, or ~~((turf, forage or vegetable))~~ seed shall be not less than fifteen thousand dollars. The actual amount of such bond shall be determined by dividing the annual dollar volume of the licensee's net proceeds or net payments due consignors by twelve and increasing that amount to the next multiple of five thousand dollars ~~((except that the bond amount for dollar volume arising from proprietary seed bailment contracts shall be computed as provided in subsection (4) of this section))~~. ~~((Such))~~ The bond for a new commission merchant or dealer in hay, straw, or ~~((turf, forage or vegetable))~~ seed shall be subject to increase at any time during the licensee's first year of operation based on the average of business volume for any three months. Except as provided in subsection (3) of this section, the bond shall be not less than ten thousand dollars for any other dealer.

(3) The bond for a commission merchant or dealer in livestock shall be not less than ten thousand dollars. The actual amount of such bond shall be determined in accordance with the formula set forth in the packers and stockyard act of 1921 (7 U.S.C. 181), except that a commission merchant or dealer in livestock shall increase the commission merchant's or dealer's bond by five thousand dollars for each agent the commission merchant or dealer has endorsed under RCW 20.01.090. A dealer who also acts as an order buyer for other persons who are also licensed and bonded under this chapter or under the packers and stockyards act (7 U.S.C. 181) may subtract that amount of business from the annual gross volume of purchases reported to the director in determining the amount of bond coverage that must be provided and maintained for the purposes of this chapter.

(4) The bond for a commission merchant handling agricultural products other than livestock, hay, straw, or ~~((turf, forage or vegetable))~~ seed shall not be less than ten thousand dollars. The bond for a dealer handling agricultural products other than livestock, hay, straw, or ~~((turf, forage or vegetable))~~ seed shall not be less than ten thousand dollars. The actual amount of such bond shall be determined by dividing the annual dollar volume of the licensee's net proceeds or net payments due consignors by fifty-two and increasing that amount to the next multiple of two thousand dollars. However, bonds above

twenty-six thousand dollars shall be increased to the next multiple of five thousand dollars.

(5) When the annual dollar volume of any commission merchant or dealer reaches two million six hundred thousand dollars, the amount of the bond required above this level shall be on a basis of ten percent of the amount arrived at by applying the appropriate formula.

Sec. 3. RCW 20.01.465 and 1991 c 109 s 24 are each amended to read as follows:

(1) In the preparation and use of written contracts, it is unlawful for a commission merchant to include in such contracts a requirement that a consignor give up all involvement in determining the time the consignor's agricultural products will be sold. ~~((This provision))~~

(2) Subsection (1) of this section does not apply to agricultural products consigned to a commission merchant under a written pooling agreement.

(3) Subsection (1) of this section does not apply to seeds consigned to a commission merchant.

Passed by the Senate March 11, 2004.

Passed by the House March 4, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.

CHAPTER 213

[Substitute Senate Bill 6155]

HORTICULTURAL PEST PROTECTION—OUTDOOR BURNING

AN ACT Relating to the prevention of horticultural pests and diseases; and amending RCW 70.94.743.

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

Sec. 1. RCW 70.94.743 and 2001 1st sp.s. c 12 s 1 are each amended to read as follows:

(1) Consistent with the policy of the state to reduce outdoor burning to the greatest extent practical:

(a) Outdoor burning shall not be allowed in any area of the state where federal or state ambient air quality standards are exceeded for pollutants emitted by outdoor burning.

(b) Outdoor burning shall not be allowed in any urban growth area as defined by RCW 36.70A.030, or any city of the state having a population greater than ten thousand people if such cities are threatened to exceed state or federal air quality standards, and alternative disposal practices consistent with good solid waste management are reasonably available or practices eliminating production of organic refuse are reasonably available. In no event shall such burning be allowed after December 31, 2000, except that within the urban growth areas for cities having a population of less than five thousand people, that are neither within nor contiguous with any nonattainment or maintenance area designated under the federal clean air act, in no event shall such burning be allowed after December 31, 2006.

(c) Notwithstanding any other provision of this section, outdoor burning may be allowed for the exclusive purpose of managing storm or flood-related

debris. The decision to allow burning shall be made by the entity with permitting jurisdiction as determined under RCW 70.94.660 or 70.94.755. If outdoor burning is allowed in areas subject to (a) or (b) of this subsection, a permit shall be required, and a fee may be collected to cover the expenses of administering and enforcing the permit. All conditions and restrictions pursuant to RCW 70.94.750(1) and 70.94.775 apply to outdoor burning allowed under this section.

(d)(i) Outdoor burning that is normal, necessary, and customary to ongoing agricultural activities, that is consistent with agricultural burning authorized under RCW 70.94.650 and 70.94.656, is allowed within the urban growth area as defined in (b) of this subsection if the burning is not conducted during air quality episodes, or where a determination of impaired air quality has been made as provided in RCW 70.94.473, and the agricultural activities preceded the designation as an urban growth area.

(ii) Outdoor burning of cultivated orchard trees, whether or not agricultural crops will be replanted on the land, shall be allowed as an ongoing agricultural activity under this section if a local horticultural pest and disease board formed under chapter 15.09 RCW, an extension office agent with Washington State University that has horticultural experience, or an entomologist employed by the department of agriculture, has determined in writing that burning is an appropriate method to prevent or control the spread of horticultural pests or diseases.

(2) "Outdoor burning" means the combustion of material of any type in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion.

(3) This section shall not apply to silvicultural burning used to improve or maintain fire dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas.

Passed by the Senate March 9, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.

CHAPTER 214

[Substitute Senate Bill 6575]

IRRIGATION DISTRICT FACILITIES

AN ACT Relating to classifications for irrigation district conveyance and drainage facilities; and adding a new section to chapter 90.48 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 90.48 RCW to read as follows:

(1) The department, as resources allow, shall at the request of the United States bureau of reclamation or federal reclamation project irrigation districts cooperatively conduct a use attainability analysis of water bodies located within the boundaries of the federal reclamation project.

(2) If necessary because of the use attainability analysis conducted under subsection (1) of this section, the department, consistent with applicable federal water quality laws and regulations, shall adopt rules designating uses for water bodies within the federal reclamation project that support beneficial uses consistent with the primary authorized project purposes of constructed storage and conveyance facilities and other water transport systems and that recognize the unique site-specific characteristics of the arid and semiarid regions of the state of Washington where federal reclamation projects are located. The rules shall also recognize the need to deliver project irrigation water and to construct, operate, and maintain project facilities.

Passed by the Senate March 10, 2004.

Passed by the House March 4, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.

CHAPTER 215

[Engrossed Substitute Senate Bill 5665]

IRRIGATION DISTRICT ADMINISTRATION

AN ACT Relating to administration of irrigation districts; and amending RCW 87.03.138, 87.03.277, 87.03.443, 87.06.030, 87.06.060, 87.06.110, 60.80.005, 60.80.010, and 60.80.020.

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

Sec. 1. RCW 87.03.138 and 1983 1st ex.s. c 48 s 3 are each amended to read as follows:

Directors (~~and~~), officers, employees, or agents of irrigation districts shall be immune from civil liability for any cause of action or claim for damages for any mistakes and errors of judgment in the good faith performance of acts within the scope of their official duties involving (~~the exercise of judgment and discretion~~) any discretionary decision or failure to make a discretionary decision which relate solely to their responsibilities for electrical utilities, hydroelectric facilities, potable water facilities, or irrigation works. This grant of immunity shall not be construed as modifying the liability of the irrigation district.

Sec. 2. RCW 87.03.277 and 2002 c 53 s 1 are each amended to read as follows:

Irrigation districts that have designated their own treasurers as provided in RCW 87.03.440 may accept credit cards, charge cards, debit cards, smart cards, stored value cards, federal wire, and automatic clearinghouse system transactions, or other electronic communication, for any payment of any kind including, but not limited to, assessments, fines, interest, penalties, special assessments, fees, rates, tolls and charges, or moneys due irrigation districts. A payer desiring to pay by a credit card, charge card, debit card, smart card, stored value card, federal wire, automatic clearinghouse system, or other electronic communication shall bear the cost of processing the transaction in an amount determined by the treasurer, unless the board of directors finds that it is in the best interests of the district to not charge transaction processing costs for all payment transactions made for a specific category of (~~nonassessment~~) payments due the district, including, but not limited to, assessments, fines,

interest (~~(not associated with assessments)~~), penalties (~~(not associated with assessments)~~), special assessments, fees, rates, tolls, and charges. The treasurer's cost determination shall be based upon costs incurred by the treasurer and may not, in any event, exceed the additional direct costs incurred by the district to accept the specific form of payment used by the payer.

Sec. 3. RCW 87.03.443 and 1979 ex.s. c 263 s 4 are each amended to read as follows:

There may be created for each irrigation district a fund to be known as the upgrading and improvement fund. ~~((At least five percent))~~ The board of directors shall determine what portion of the annual revenue of ((each) the irrigation district ((may annually)) will be placed into its upgrading and improvement fund, including all or any part of the funds received by a district from the sale, delivery, and distribution of electrical energy. Moneys from the upgrading and improvement fund may only be used to modernize, improve, or upgrade the irrigation facilities of the irrigation district or to respond to an emergency affecting such facilities.

Sec. 4. RCW 87.06.030 and 1988 c 134 s 3 are each amended to read as follows:

The treasurer shall order a title search of the property for which a certificate of delinquency has been prepared to determine or verify the legal description of the property to be sold and parties in interest. In districts with two hundred thousand acres or more, the board of directors, upon receiving the certificates of delinquency may, after reviewing the amount of delinquent assessment compared to the costs of foreclosure, including but not limited to title search, court filing fees, costs of service, and attorneys' fees, determine that it is not in the best interest of the district to commence legal action to foreclose the delinquent assessment liens.

Sec. 5. RCW 87.06.060 and 1988 c 134 s 6 are each amended to read as follows:

(1) The proceedings to foreclose the liens against all properties on a general certificate of delinquency or on more than one individual certificate may be brought in one action.

(2) No assessment, costs, or interest may be considered illegal because of any irregularity in the assessment roll or because the assessment roll has not been made, completed, or returned within the time required by law, or because the property has been charged or listed in the assessment roll without name, or in any other name than that of the owner, and no error or informality in the proceedings of any of the officers connected with the assessment may invalidate or in any other manner affect the assessment thereof. Any irregularities or informality in the assessment roll or in any of the proceedings connected with the assessment or any omission or defective act of any officer or officers connected with the assessment may be, at the discretion of the court corrected, supplied, and made to conform to the law by the court. This ~~((section))~~ subsection does not apply if the court finds that the failure to conform to the law unfairly ((affects parties in)) prejudices a party with an interest in the property.

(3) A party with an interest in real property subject to foreclosure within the district may file a written answer within the time permitted by RCW 87.06.040(1)(d) asserting an objection or defense to the entry of a foreclosure

judgment against the property. However, defenses or objections shall be limited to: (a) The form of pleading; (b) manner of service; (c) invalidity of the assessments claimed delinquent; (d) payment of the assessments claimed delinquent; or (e) that the real property against which foreclosure is sought is not subject to district assessment. No counterclaim shall be permitted. The court shall liberally permit amendment or supplementation of the district's challenged pleading or procedure to cure the claimed defect.

(4) The court shall determine timely objections or defenses to the district's foreclosure in a summary proceeding based only on the district's pleading and the interested party's answer and shall promptly pronounce judgment granting or denying the foreclosure; or the court may, in its discretion, to provide substantial justice to the parties, continue the case to a later time to hear evidence on the issues raised by the answer. Hearings under this section shall be limited to affidavits or declarations, and shall be expedited.

Sec. 6. RCW 87.06.110 and 1988 c 134 s 11 are each amended to read as follows:

The board of directors of the irrigation district and the county treasurer may through the interlocal cooperation agreement act, chapter 39.34 RCW, choose to have one of the treasurers proceed with a combined foreclosure for all property taxes, irrigation assessments, and all costs and interest owing to both entities. Any such agreement shall include a specific statement as to which entity shall assume title if no bids are received equal to or greater than the amount listed on the minimum bid sheet. The agreement shall also clearly specify how any unclaimed excess funds from the sale will be divided between the county and the irrigation district.

With a combined foreclosure for all property taxes, all irrigation district assessments, and all costs and interest owing to both entities, the county treasurer may use the foreclosure procedure under chapter 84.64 RCW or the irrigation district treasurer may use the foreclosure procedure under this chapter. When acting as the treasurer for the irrigation district, the county treasurer may use the foreclosure procedure under chapter 84.64 RCW.

Sec. 7. RCW 60.80.005 and 1996 c 43 s 1 are each amended to read as follows:

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

(1) Except as otherwise provided in this subsection (1), "charges" include: (a) All lawful charges assessed by a utility operated under chapter 35.21, 35.67, 36.36, 36.89, 36.94, (~~56.16;~~) or 57.08(~~or 87.03~~) RCW, but not evidenced by a recorded lien, recorded covenant, recorded agreement, or special assessment roll filed with the city or county treasurer or assessor, and not billed and collected with property taxes; and (b) penalties and interest, and reasonable attorneys' fees and other costs of foreclosure if foreclosure proceedings have been commenced.

(2) "Closing agent" means an escrow agent as defined in RCW (~~18.44.010(4)~~) 18.44.011(6) or a person exempt from licensing (~~and registration~~) requirements under RCW (~~18.44.020~~) 18.44.021, handling the escrow on the sale of the real property.

(3) "Real estate agent" means a real estate broker, real estate salesperson, associate real estate broker, or person as defined in RCW 18.85.010 (1) through (4).

(4) "Business day" means a day the offices of the county or counties in which the utility in question provides service are open for business.

Sec. 8. RCW 60.80.010 and 1996 c 43 s 2 are each amended to read as follows:

(1) Unless otherwise stated and acknowledged in writing by the purchaser, the seller of a fee interest in real property is responsible for satisfying, upon closing, any lien provided for by RCW 35.21.290, 35.67.200, 36.36.045, 36.89.090, or 36.94.150(~~(, 56.16.100, 57.08.080, or 87.03.445)~~).

(2) No closing agent may refuse a written request by the seller or purchaser of a fee interest in real property to administer the disbursement of closing funds necessary to satisfy unpaid charges as charges are defined in RCW 60.80.005. Except as otherwise provided in this subsection (2), a closing agent who refuses such a written request is liable to the purchaser for unpaid charges for utility services covered by the request. A closing agent is not liable if the closing agent's refusal is based on the seller's inaccurate or incomplete identification of utilities providing service to the property, or if a utility fails to provide an estimated or actual final billing, or written extension of the per diem rate, as required by RCW 60.80.020, or if disbursement of closing funds necessary to satisfy the unpaid charges would violate RCW (~~18.44.070~~) 18.44.400.

(3) A closing agent may charge a fee for performing the services required of the closing agent by this chapter, which fee may be in addition to other fees or settlement charges collected in the course of ordinary settlement practices.

Sec. 9. RCW 60.80.020 and 1996 c 43 s 3 are each amended to read as follows:

(1) Unless the seller and purchaser waive, in writing, the services of a closing agent in administering the disbursement of closing funds necessary to satisfy unpaid charges as charges are defined in RCW 60.80.005, the seller shall, as a provision in a written agreement for the purchase and sale of real estate, inform the closing agent for the sale of the names and addresses of all utilities, including special districts, providing service to the property under chapter 35.21, 35.67, 36.36, 36.89, 36.94, (~~(56.16,)~~) or 57.08(~~(, or 87.03)~~) RCW. The provision of the information in a written agreement for the purchase and sale of real estate constitutes a written request to the closing agent to administer disbursement of closing funds necessary to satisfy unpaid charges.

Unless the seller and purchaser have waived the services of a closing agent as provided in this subsection, the closing agent shall submit a written request for a final billing to each utility identified by the seller as providing service to the property under chapter 35.21, 35.67, 36.36, 36.89, 36.94, (~~(56.16,)~~) or 57.08(~~(, or 87.03)~~) RCW. Either the seller or purchaser may submit a written request for a final billing to each utility identified by the seller as providing service to the property under chapter 35.21, 35.67, 36.36, 36.89, 36.94, (~~(56.16,)~~) or 57.08(~~(, or 87.03)~~) RCW.

The written request must identify the property by both legal description and address. The closing agent, seller, or purchaser may submit a written request to a utility by facsimile. In requesting final billings for utility services, the closing

agent may rely upon information provided by the seller, and a closing agent or a real estate agent who is not the seller is not liable for inaccurate or incomplete information.

(2) After receiving a written request for a final billing for utility services to real property to be sold, a utility operated under chapter 35.21, 35.67, 36.36, 36.89, 36.94, ~~((56.16,))~~ or 57.08~~((, or 87.03))~~ RCW shall provide the requesting party with a written estimated or actual final billing as provided in this section. If the utility is unable to provide a written estimated or actual final billing or written extension of the per diem rate, due to insufficient information to identify the account, the utility shall notify the requesting party in writing that the information is insufficient to identify the account.

The utility shall provide the written estimated or actual final billing, or statement that the information in the request is insufficient to identify the account, to the requesting party within seven business days of receipt of the written request if the request was mailed to the utility, or within three business days if the request was sent to the utility by facsimile or delivered to the utility by messenger. A utility may provide a written estimated or actual final billing to the requesting party by facsimile.

(a) The final billing must include all outstanding charges and, in addition to the estimated or actual final amount owing as of the stated closing date, must state the average per diem rate for the utility or utilities involved, including taxes and other charges, which shall apply for up to thirty days beyond the stated closing date if the closing date is delayed.

(b) If closing is delayed beyond thirty days, a new estimated or actual final billing must be requested in writing. In lieu of furnishing a written revised final billing, the utility may extend, in writing, the number of days for which the per diem charge applies. The utility shall respond within seven business days of receipt of the written request for a new estimated or actual final billing if the request was mailed to the utility, or within three business days if the request was sent to the utility by facsimile or delivered to the utility by messenger.

(c) If a utility fails to provide a written estimated or actual final billing, written extension of the per diem rate, or statement that the information in the request is insufficient to identify the account, within seven business days of receipt of a written request if the request was mailed to the utility, or within three business days if the request was sent to the utility by facsimile or delivered to the utility by messenger, an unrecorded lien provided for by RCW 35.21.290, 35.67.200, 36.36.045, 36.89.090, or 36.94.150~~((, 56.16.100, 57.08.080, or 87.03.445))~~ for charges incurred prior to the closing date is extinguished, and the utility may not recover the charges from the purchaser of the property.

(d) A closing agent shall inform the seller and purchaser of all applicable estimated and actual final billings furnished by utilities.

In performing his or her duties under this chapter, a closing agent may rely upon information provided by utilities and is not liable if information provided by utilities is inaccurate or incomplete.

(3) If closing occurs no later than the last date for which per diem charges may be applied, full payment of the estimated or actual final billing plus per diem charges extinguishes a lien of the utility provided for by RCW 35.21.290, 35.67.200, 36.36.045, 36.89.090, or 36.94.150~~((, 56.16.100, 57.08.080, or 87.03.445))~~ for charges incurred prior to the closing date.

(4)(a) Except as otherwise provided in this subsection (4)(a), this section does not limit the right of a utility to recover from the purchaser of the property unpaid utility charges incurred prior to closing, if the utility did not receive a written request for a final billing or if the utility complied with subsection (2) of this section.

A utility may not recover from a purchaser unpaid utility charges incurred prior to closing in excess of an estimated final billing.

(b) This section does not limit the right of a utility to recover unpaid utility charges incurred prior to closing, including unpaid utility charges in excess of an estimated final billing, from the seller of the property, or from the person or persons who incurred the charges.

(c) If an estimated final billing is in excess of the actual final billing, unless otherwise directed in writing by the seller and purchaser, a utility shall refund any overcharge to the seller of the property by sending the refund in the seller's name to the last address provided by the seller. A utility shall refund the overcharge within fourteen business days of the date the utility receives payment for the final billing, unless a county treasurer acts in an ex officio capacity as the treasurer of a utility, in which case the utility shall refund the overcharge within thirty business days of the date the utility receives payment for the final billing.

Passed by the Senate March 8, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.

CHAPTER 216

[Substitute Senate Bill 6581]

FOREST FIRE PROTECTION FUNDING

AN ACT Relating to funding for forest fire protection; and amending RCW 76.04.610.

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

Sec. 1. RCW 76.04.610 and 2001 c 279 s 2 are each amended to read as follows:

(1) If any owner of forest land within a forest protection zone neglects or fails to provide adequate fire protection as required by RCW 76.04.600, the department shall provide such protection and shall annually impose the following assessments on each parcel of such land: (a) A flat fee assessment of fourteen dollars and fifty cents; and (b) twenty-five cents on each acre exceeding fifty acres. Assessors may, at their option, collect the assessment on tax exempt lands. If the assessor elects not to collect the assessment, the department may bill the landowner directly.

(2) An owner who has paid assessments on two or more parcels, each containing fewer than fifty acres and each within the same county, may obtain the following refund:

(a) If all the parcels together contain less than fifty acres, then the refund is equal to the flat fee assessments paid, reduced by the total of (i) fourteen dollars and (ii) the total of the amounts retained by the county from such assessments under subsection (5) of this section.

(b) If all the parcels together contain fifty or more acres, then the refund is equal to the flat fee assessments paid, reduced by the total of (i) fourteen dollars, (ii) twenty-five cents for each acre exceeding fifty acres, and (iii) the total of the amounts retained by the county from such assessments under subsection (5) of this section.

Applications for refunds shall be submitted to the department on a form prescribed by the department and in the same year in which the assessments were paid. The department may not provide refunds to applicants who do not provide verification that all assessments and property taxes on the property have been paid. Applications may be made by mail.

In addition to the procedures under this subsection, property owners with multiple parcels in a single county who qualify for a refund under this section may apply to the department on an application listing all the parcels owned in order to have the assessment computed on all parcels but billed to a single parcel. Property owners with the following number of parcels may apply to the department in the year indicated:

Year	Number of Parcels
2002	10 or more parcels
2003	8 or more parcels
2004 <u>and thereafter</u>	6 or more parcels
((2005	4 or more parcels
2006 and thereafter	2 or more parcels))

The department must compute the correct assessment and allocate one parcel in the county to use to collect the assessment. The county must then bill the forest fire protection assessment on that one allocated identified parcel. The landowner is responsible for notifying the department of any changes in parcel ownership.

(3) Beginning January 1, 1991, under the administration and at the discretion of the department up to two hundred thousand dollars per year of this assessment shall be used in support of those rural fire districts assisting the department in fire protection services on forest lands.

(4) For the purpose of this chapter, the department may divide the forest lands of the state, or any part thereof, into districts, for fire protection and assessment purposes, may classify lands according to the character of timber prevailing, and the fire hazard existing, and place unprotected lands under the administration of the proper district. Amounts paid or contracted to be paid by the department for protection of forest lands from funds at its disposal shall be a lien upon the property protected, unless reimbursed by the owner within ten days after October 1st of the year in which they were incurred. The department shall be prepared to make statement thereof, upon request, to a forest owner whose own protection has not been previously approved as to its adequacy, the department shall report the same to the assessor of the county in which the property is situated. The assessor shall extend the amounts upon the tax rolls covering the property, and upon authorization from the department shall levy the forest protection assessment against the amounts of unimproved land as shown in each ownership on the county assessor's records. The assessor may then segregate on the records to provide that the improved land and improvements

thereon carry the millage levy designed to support the rural fire protection districts as provided for in RCW 52.16.170.

(5) The amounts assessed shall be collected at the time, in the same manner, by the same procedure, and with the same penalties attached that general state and county taxes on the same property are collected, except that errors in assessments may be corrected at any time by the department certifying them to the treasurer of the county in which the land involved is situated. Assessments shall be known and designated as assessments of the year in which the amounts became reimbursable. Upon the collection of assessments the county treasurer shall place fifty cents of the total assessments paid on a parcel for fire protection into the county current expense fund to defray the costs of listing, billing, and collecting these assessments. The treasurer shall then transmit the balance to the department. Collections shall be applied against expenses incurred in carrying out the provisions of this section, including necessary and reasonable administrative costs incurred by the department in the enforcement of these provisions. The department may also expend sums collected from owners of forest lands or received from any other source for necessary administrative costs in connection with the enforcement of RCW 76.04.660.

(6) When land against which forest protection assessments are outstanding is acquired for delinquent taxes and sold at public auction, the state shall have a prior lien on the proceeds of sale over and above the amount necessary to satisfy the county's delinquent tax judgment. The county treasurer, in case the proceeds of sale exceed the amount of the delinquent tax judgment, shall immediately remit to the department the amount of the outstanding forest protection assessments.

(7) All nonfederal public bodies owning or administering forest land included in a forest protection zone shall pay the forest protection assessments provided in this section and the special forest fire suppression account assessments under RCW 76.04.630. The forest protection assessments and special forest fire suppression account assessments shall be payable by nonfederal public bodies from available funds within thirty days following receipt of the written notice from the department which is given after October 1st of the year in which the protection was provided. Unpaid assessments are not a lien against the nonfederal publicly owned land but shall constitute a debt by the nonfederal public body to the department and are subject to interest charges at the legal rate.

(8) A public body, having failed to previously pay the forest protection assessments required of it by this section, which fails to suppress a fire on or originating from forest lands owned or administered by it, is liable for the costs of suppression incurred by the department or its agent and is not entitled to reimbursement of costs incurred by the public body in the suppression activities.

(9) The department may adopt rules to implement this section, including, but not limited to, rules on levying and collecting forest protection assessments.

Passed by the Senate February 17, 2004.

Passed by the House March 4, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.

CHAPTER 217

[Substitute Senate Bill 6216]

TIMBERLAND—TAX DEFINITION

AN ACT Relating to defining timber land to include certain incidental uses; amending RCW 84.34.020; and creating a new section.

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

Sec. 1. RCW 84.34.020 and 2002 c 315 s 1 are each amended to read as follows:

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

(1) "Open space land" means (a) any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly, or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply, or (iii) promote conservation of soils, wetlands, beaches or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or (v) enhance recreation opportunities, or (vi) preserve historic sites, or (vii) preserve visual quality along highway, road, and street corridors or scenic vistas, or (viii) retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification, or (c) any land meeting the definition of farm and agricultural conservation land under subsection (8) of this section. As a condition of granting open space classification, the legislative body may not require public access on land classified under (b)(iii) of this subsection for the purpose of promoting conservation of wetlands.

(2) "Farm and agricultural land" means:

(a) Any parcel of land that is twenty or more acres or multiple parcels of land that are contiguous and total twenty or more acres:

(i) Devoted primarily to the production of livestock or agricultural commodities for commercial purposes;

(ii) Enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture; or

(iii) Other similar commercial activities as may be established by rule;

(b) Any parcel of land that is five acres or more but less than twenty acres devoted primarily to agricultural uses, which has produced a gross income from agricultural uses equivalent to, as of January 1, 1993:

(i) One hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and

(ii) On or after January 1, 1993, two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter;

(c) Any parcel of land of less than five acres devoted primarily to agricultural uses which has produced a gross income as of January 1, 1993, of:

(i) One thousand dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and

(ii) On or after January 1, 1993, fifteen hundred dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter.

Parcels of land described in (b)(i) and (c)(i) of this subsection shall, upon any transfer of the property excluding a transfer to a surviving spouse, be subject to the limits of (b)(ii) and (c)(ii) of this subsection;

(d) Any lands including incidental uses as are compatible with agricultural purposes, including wetlands preservation, provided such incidental use does not exceed twenty percent of the classified land and the land on which appurtenances necessary to the production, preparation, or sale of the agricultural products exist in conjunction with the lands producing such products. Agricultural lands shall also include any parcel of land of one to five acres, which is not contiguous, but which otherwise constitutes an integral part of farming operations being conducted on land qualifying under this section as "farm and agricultural lands"; or

(e) The land on which housing for employees and the principal place of residence of the farm operator or owner of land classified pursuant to (a) of this subsection is sited if: The housing or residence is on or contiguous to the classified parcel; and the use of the housing or the residence is integral to the use of the classified land for agricultural purposes.

(3) "Timber land" means any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timber land means the land only and does not include a residential homesite. The term includes land used for incidental uses that are compatible with the growing and harvesting of timber but no more than ten percent of the land may be used for such incidental uses. It also includes the land on which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.

(4) "Current" or "currently" means as of the date on which property is to be listed and valued by the assessor.

(5) "Owner" means the party or parties having the fee interest in land, except that where land is subject to real estate contract "owner" shall mean the contract vendee.

(6) "Contiguous" means land adjoining and touching other property held by the same ownership. Land divided by a public road, but otherwise an integral part of a farming operation, shall be considered contiguous.

(7) "Granting authority" means the appropriate agency or official who acts on an application for classification of land pursuant to this chapter.

(8) "Farm and agricultural conservation land" means either:

(a) Land that was previously classified under subsection (2) of this section, that no longer meets the criteria of subsection (2) of this section, and that is reclassified under subsection (1) of this section; or

(b) Land that is traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.

NEW SECTION. Sec. 2. The purpose of the amendatory language in section 1 of this act is to clarify the timber land definition as it relates to tax issues. The language does not affect land use policy or law.

Passed by the Senate February 11, 2004.

Passed by the House March 2, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.

CHAPTER 218

[Second Substitute Senate Bill 6144]

FOREST HEALTH IMPROVEMENT

AN ACT Relating to opportunities and strategies for improving forest health in Washington; amending RCW 79.15.510, 79.15.520, and 79.15.500; amending 2003 c 313 s 13 (uncodified); adding new sections to chapter 76.06 RCW; adding a new section to chapter 79.15 RCW; creating new sections; providing expiration dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 76.06 RCW to read as follows:

(1) The legislature finds that Washington faces serious forest health problems where forests are overcrowded or trees are infested with or susceptible to insects, diseases, wind, ice storms, and fire. The causes and contributions to these susceptible conditions include fire suppression, past timber harvesting and silvicultural practices, and the amplified risks that occur when the urban interface penetrates forest land.

(2) The legislature further finds that forest health problems may exist on forest land regardless of ownership, and the state should explore all possible avenues for working in collaboration with the federal government to address common health deficiencies.

(3) The legislature further finds that healthy forests benefit not only the economic interests that rely on forest products but also provide environmental benefits, such as improved water quality and habitat for fish and wildlife.

NEW SECTION. Sec. 2. A new section is added to chapter 76.06 RCW to read as follows:

(1) The commissioner of public lands is designated as the state of Washington's lead for all forest health issues.

(2) The commissioner of public lands shall strive to promote communications between the state and the federal government regarding forest land management decisions that potentially affect the health of forests in Washington and will allow the state to have an influence on the management of federally owned land in Washington. Such government-to-government cooperation is vital if the condition of the state's public and private forest lands are to be protected. These activities may include, when deemed by the commissioner to be in the best interest of the state:

(a) Representing the state's interest before all appropriate local, state, and federal agencies;

(b) Assuming the lead state role for developing formal comments on federal forest management plans that may have an impact on the health of forests in Washington; and

(c) Pursuing in an expedited manner any available and appropriate cooperative agreements, including cooperating agency status designation, with the United States forest service and the United States bureau of land management that allow for meaningful participation in any federal land management plans that could affect the department's strategic plan for healthy forests and effective fire prevention and suppression, including the pursuit of any options available for giving effect to the cooperative philosophy contained within the national environmental policy act of 1969 (42 U.S.C. Sec. 4331).

(3) The commissioner of public lands shall report to the chairs of the appropriate standing committees of the legislature every year on progress under this section, including the identification, if deemed appropriate by the commissioner, of any needed statutory changes, policy issues, or funding needs.

NEW SECTION. Sec. 3. The commissioner of public lands shall develop a statewide plan for increasing forest resistance and resilience to forest insects, disease, wind, and fire in Washington by December 30, 2004. In developing the statewide plan, the commissioner shall work with and consult the work group created in section 4 of this act.

NEW SECTION. Sec. 4. (1) A work group is created to study opportunities to improve the forest health issues enumerated in section 1 of this act that are facing forest land in Washington and to help the commissioner of public lands develop a strategic plan under section 3 of this act. The work group may, if deemed necessary, identify and focus on regions of the state where forest health issues enumerated in section 1 of this act are the most critical.

(2)(a) The work group is comprised of individuals selected on the basis of their knowledge of forests, forest ecology, or forest health issues and, if determined by the commissioner of public lands to be necessary, should represent a mix of individuals with knowledge regarding specific regions of the state. Members of the work group shall be appointed by the commissioner of public lands, unless otherwise specified, and shall include:

(i) The commissioner of public lands or the commissioner's designee, who shall serve as chair;

(ii) A representative of a statewide industrial timber landowner's group;

(iii) A landowner representative from the small forest landowner advisory committee established in RCW 76.13.110;

(iv) A representative of a college within a state university that specializes in forestry or natural resources science;

(v) A representative of an environmental organization;

(vi) A representative of a county that has within its borders state-owned forest lands that are known to suffer from the forest health deficiencies enumerated in section 1 of this act;

(vii) A representative of the Washington state department of fish and wildlife;

(viii) A forest hydrologist, an entomologist, and a fire ecologist, if available;

(ix) A representative of the governor appointed by the governor; and
(x) A representative of a professional forestry organization.
(b) In addition to the membership of the work group outlined in this section, the commissioner of public lands shall also invite the full and equal participation of:

(i) A representative of a tribal government located in a region of the state where the forest health issues enumerated in section 1 of this act are present; and
(ii) A representative of both the United States forest service and the United States fish and wildlife service stationed to work primarily in Washington.

(3) The work group shall:

(a) Determine whether the goals and requirements of chapter 76.06 RCW are being met with regard to the identification, designation, and reduction of significant forest insect and disease threats to public and private forest resources, and whether the provisions of chapter 76.06 RCW are the most effective and appropriate way to address forest health issues;

(b) Study what incentives could be used to assist landowners with the costs of creating and maintaining forest health;

(c) Identify opportunities and barriers for improved prevention of losses of public and private resources to forest insects, diseases, wind, and fire;

(d) Assist the commissioner in developing a strategic plan under section 3 of this act for increasing forest resistance and resilience to forest insects, disease, wind, and fire in Washington;

(e) Develop funding alternatives for consideration by the legislature;

(f) Explore possible opportunities for the state to enter into cooperative agreements with the federal government, or other avenues for the state to provide input on the management of federally owned land in Washington;

(g) Develop recommendations for the proper treatment of infested and fire and wind damaged forests on public and private lands within the context of working with interdisciplinary teams under the forest practices act to ensure that forest health is achieved with the protection of fish, wildlife, and other public resources;

(h) Analyze the state noxious weed control statutes and procedures (chapter 17.10 RCW) and the extreme hazard regulations adopted under the forest protection laws, to determine if the policies and procedures of these laws are applicable, or could serve as a model to support improved forest health; and

(i) Recommend whether the work group should be extended beyond the time that the required report has been submitted.

(4) The work group shall submit to the department of natural resources and the appropriate standing committees of the legislature, no later than December 30, 2004, its findings and recommendations for legislation that is necessary to implement the findings.

(5) The department of natural resources shall provide technical and staff support from existing staff for the work group created by this section.

(6) This section expires June 30, 2005.

NEW SECTION. Sec. 5. A new section is added to chapter 79.15 RCW to read as follows:

(1) The legislature intends to ensure, to the extent feasible given all applicable trust responsibilities, that trust beneficiaries receive long-term income

from timber lands through improved forest conditions and by reducing the threat of forest fire to state trust forest lands.

(2) In order to implement the intent of subsection (1) of this section, the department may initiate contract harvesting timber sales, or other silvicultural treatments when appropriate, in specific areas of state trust forest land where the department has identified forest health deficiencies as enumerated in section 1 of this act. All harvesting or silvicultural treatments applied under this section must be tailored to improve the health of the specific stand, must be consistent with any applicable state forest plans and other management agreements, and must comply with all applicable state and federal laws and regulations regarding the harvest of timber by the department of natural resources.

(3) In utilizing contract harvesting to address forest health issues as outlined in this section, the department shall give priority to silvicultural treatments that assist the department in meeting forest health strategies included in any management or landscape plans that exist for state forests.

Sec. 6. RCW 79.15.510 and 2003 c 313 s 3 are each amended to read as follows:

(1) The department may establish a contract harvesting program ~~((by))~~ for directly contracting for the removal of timber and other valuable materials from state lands and for conducting silvicultural treatments consistent with section 5 of this act.

(2) The contract requirements must be compatible with the office of financial management's guide to public service contracts.

(3) The department may not use contract harvesting for more than ten percent of the total annual volume of timber offered for sale. However, volume removed primarily to address an identified forest health issue under section 5 of this act may not be included in calculating the ten percent annual limit of contract harvesting sales.

Sec. 7. RCW 79.15.520 and 2003 c 313 s 4 are each amended to read as follows:

(1) The contract harvesting revolving account is created in the custody of the state treasurer. All receipts from the gross proceeds of the sale of logs from a contract harvesting sale must be deposited into the account. Expenditures from the account may be used only for the payment of harvesting costs incurred on contract harvesting sales and for payment of costs incurred from silvicultural treatments necessary to improve forest health conducted under section 5 of this act. Only the commissioner or the commissioner's designee may authorize expenditures from the account. The board of natural resources has oversight of the account, and the commissioner must periodically report to the board of natural resources as to the status of the account, its disbursement, and receipts. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) When the logs from a contract harvesting sale are sold, the gross proceeds must be deposited into the contract harvesting revolving account. Moneys equal to the harvesting costs must be retained in the account and be deducted from the gross proceeds to determine the net proceeds. The net proceeds from the sale of the logs must be distributed in accordance with RCW ~~((43.85.130))~~ 43.30.325(1)(b). The final receipt of gross proceeds on a contract

harvesting sale must be retained in the contract harvesting revolving account until all required costs for that sale have been paid. The contract harvesting revolving account is an interest-bearing account and the interest must be credited to the account. The account balance may not exceed one million dollars at the end of each fiscal year. Moneys in excess of one million dollars must be disbursed according to RCW ((76.12.030, 76.12.120)) 79.22.040, 79.22.050, and 79.64.040. If the department permanently discontinues the use of contract harvesting sales, any sums remaining in the contract harvesting revolving account must be returned to the resource management cost account and the forest development account in proportion to each account's contribution to the initial balance of the contract harvesting revolving account.

Sec. 8. RCW 79.15.500 and 2003 c 313 s 2 are each amended to read as follows:

The definitions in this section apply throughout ((this chapter)) RCW 79.15.500 through 79.15.530 and section 5 of this act unless the context clearly requires otherwise.

(1) "Commissioner" means the commissioner of public lands.

(2) "Contract harvesting" means a timber operation occurring on state forest lands, in which the department contracts with a firm or individual to perform all the necessary harvesting work to process trees into logs sorted by department specifications. The department then sells the individual log sorts.

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

(4) "Harvesting costs" are those expenses related to the production of log sorts from a stand of timber. These expenses typically involve road building, labor for felling, bucking, and yarding, as well as the transporting of sorted logs to the forest product purchasers.

(5) "Net proceeds" means gross proceeds from a contract harvesting sale less harvesting costs.

(6) "Silvicultural treatment" means any vegetative or other treatment applied to a managed forest to improve the conditions of the stand, and may include harvesting, thinning, prescribed burning, and pruning.

Sec. 9. 2003 c 313 s 13 (uncodified) is amended to read as follows:

By December 31, 2006, the department of natural resources must provide a report to the appropriate committees of the legislature ((concerning)) that provides:

(1) An accounting of the costs and effectiveness of the contract harvesting program; and

(2) A summary of sales carried out under the contract harvesting program primarily for silvicultural treatments that are permitted under section 5 of this act. ((The report must be submitted by December 31, 2006.))

NEW SECTION. Sec. 10. Sections 5 through 8 of this act are intended to provide interim tools to the department of natural resources to address forest health issues on state land prior to the completion of the assignment given to the work group in section 4 of this act. As such, sections 5 through 8 of this act expire December 31, 2007.

NEW SECTION. Sec. 11. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 11, 2004.
 Passed by the House March 10, 2004.
 Approved by the Governor March 29, 2004.
 Filed in Office of Secretary of State March 29, 2004.

CHAPTER 219

[Senate Bill 6269]
 HARBOR LINES

AN ACT Relating to harbor lines in Blaine, Edmonds, Ilwaco, Kennewick, and Pasco; and amending RCW 79.92.030.

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

Sec. 1. RCW 79.92.030 and 1989 c 79 s 1 are each amended to read as follows:

The commission on harbor lines is hereby authorized to change, relocate, or reestablish harbor lines in Guemes Channel and Fidalgo Bay in front of the city of Anacortes, Skagit county; in Grays Harbor in front of the cities of Aberdeen, Hoquiam, and Cosmopolis, Grays Harbor county; Bellingham Bay in front of the city of Bellingham and in Drayton Harbor in front of the city of Blaine, Whatcom county; in Elliott Bay, Puget Sound and Lake Union within, and in front of the city of Seattle, King county, and within one mile of the limits of such city; Port Angeles harbor in front of the city of Port Angeles, Clallam county; in Lake Washington in front of the cities of Renton and Lake Forest Park, King county; Commencement Bay in front of the city of Tacoma, Pierce county; and within one mile of the limits of such city; Budd Inlet in front of the city of Olympia, Thurston county; the Columbia river in front of the city of Kalama, Cowlitz county; Port Washington Narrows and Sinclair Inlet in front of the city of Bremerton, Kitsap county; Sinclair Inlet in front of the city of Port Orchard, Kitsap county; in Liberty Bay in front of the city of Poulsbo, ~~((King))~~ Kitsap county; the Columbia river in front of the city of Vancouver, Clark county; Port Townsend Bay in front of the city of Port Townsend, Jefferson county; the Swinomish Channel in front of the city of La Conner, Skagit county; and Port Gardner Bay in front of the city of Everett, ~~((Snohomish county;))~~ except no harbor lines shall be established in Port Gardener Bay west of the easterly shoreline of Jetty Island as presently situated or west of a line extending S 37° 09' 38" W from the Snohomish River Light (5), and in front of the city of Edmonds, Snohomish county; in Oakland Bay in front of the city of Shelton, Mason county; and within one mile of the limits of such city; in Gig Harbor in front of the city of Gig Harbor, Pierce county; and within one mile of the limits of such city, at the entrance to the Columbia river in front of the city of Ilwaco, Pacific county; in the Columbia river in front of the city of Pasco, Franklin county; and in the Columbia river in front of the city of Kennewick, Benton county.

Passed by the Senate February 3, 2004.
 Passed by the House March 3, 2004.
 Approved by the Governor March 29, 2004.
 Filed in Office of Secretary of State March 29, 2004.

CHAPTER 220

[Substitute Senate Bill 6560]

HOOKING ANIMALS

AN ACT Relating to animal cruelty; adding a new section to chapter 16.52 RCW; prescribing penalties; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 16.52 RCW to read as follows:

(1) A person is guilty of the unlawful use of a hook if the person utilizes, or attempts to use, a hook with the intent to pierce the flesh or mouth of a bird or mammal.

(2) Unlawful use of a hook is a gross misdemeanor.

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

Passed by the Senate March 9, 2004.

Passed by the House March 4, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.

CHAPTER 221

[Substitute Senate Bill 6148]

LAW ENFORCEMENT OFFICERS KILLED IN DUTY—SPECIAL LICENSE PLATES

AN ACT Relating to special license plates to honor law enforcement officers in Washington killed in the line of duty; amending RCW 46.16.313 and 46.16.316; and adding new sections to chapter 46.16 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.16 RCW to read as follows:

(1) The legislature recognizes that the law enforcement memorial license plate has been reviewed by the special license plate review board as specified in chapter 196, Laws of 2003, and was found to fully comply with all provisions of chapter 196, Laws of 2003.

(2) The department shall issue a special license plate displaying a symbol, approved by the special license plate review board, honoring law enforcement officers in Washington killed in the line of duty. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon the terms and conditions established by the department.

NEW SECTION. Sec. 2. A new section is added to chapter 46.16 RCW to read as follows:

"Law enforcement memorial license plates" means license plates issued under section 1 of this act that display a symbol honoring law enforcement officers in Washington killed in the line of duty.

Sec. 3. RCW 46.16.313 and 1997 c 291 s 8 are each amended to read as follows:

(1) The department may establish a fee for each type of special license plates issued under RCW 46.16.301(1) (a), (b), or (c), as existing before amendment by section 5, chapter 291, Laws of 1997, in an amount calculated to offset the cost of production of the special license plates and the administration of this program. Until December 31, 1997, the fee shall not exceed thirty-five dollars, but effective with vehicle registrations due or to become due on January 1, 1998, the department may adjust the fee to no more than forty dollars. This fee is in addition to all other fees required to register and license the vehicle for which the plates have been requested. All such additional special license plate fees collected by the department shall be deposited in the state treasury and credited to the motor vehicle fund.

(2) Until December 31, 1997, in addition to all fees and taxes required to be paid upon application, registration, and renewal registration of a motor vehicle, the holder of a collegiate license plate shall pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds, minus the cost of plate production, shall be remitted to the custody of the state treasurer with a proper identifying detailed report. The state treasurer shall credit the funds to the appropriate collegiate license plate fund as provided in RCW 28B.10.890.

(3) Effective with vehicle registrations due or to become due on January 1, 1998, in addition to all fees and taxes required to be paid upon application and registration of a motor vehicle, the holder of a collegiate license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. The state treasurer shall credit the funds to the appropriate collegiate license plate fund as provided in RCW 28B.10.890.

(4) Effective with annual renewals due or to become due on January 1, 1999, in addition to all fees and taxes required to be paid upon renewal of a motor vehicle registration, the holder of a collegiate license plate shall pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. The state treasurer shall credit the funds to the appropriate collegiate license plate fund as provided in RCW 28B.10.890.

(5) In addition to all fees and taxes required to be paid upon application and registration of a motor vehicle, the holder of a special baseball stadium license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds, minus the cost of plate production, shall be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being

collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

(6) Effective with annual renewals due or to become due on January 1, 1999, in addition to all fees and taxes required to be paid upon renewal of a motor vehicle registration, the holder of a special baseball stadium license plate shall pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

(7) Effective with vehicle registrations due or to become due on January 1, 2005, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "law enforcement memorial" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the law enforcement memorial special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the law enforcement memorial account established under section 4 of this act.

(8) Effective with annual renewals due or to become due on January 1, 2006, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "law enforcement memorial" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the law enforcement memorial special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the law enforcement memorial account established under section 4 of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 46.16 RCW to read as follows:

(1) The law enforcement memorial account is created in the custody of the state treasurer. Upon the department's determination that the state has been reimbursed for the cost of implementing the law enforcement memorial special license plate, all receipts, except as provided in RCW 46.16.313 (7) and (8), from law enforcement memorial license plates must be deposited into the account. Only the director of the department of licensing or the director's

designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Funds in the account must be disbursed subject to the following conditions and limitations:

(a) Pursuant to the requirements set out in RCW 46.16.765 the department must contract with a qualified nonprofit organization to provide support and assistance to survivors and families of law enforcement officers in Washington killed in the line of duty and to organize, finance, fund, construct, utilize, and maintain a memorial on the state capitol grounds to honor those fallen officers.

(b) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation incorporated and operating exclusively in Washington that has received a determination of tax exempt status under section 501(c)(3) of the federal internal revenue code. The organization must have been established for the express purposes of providing support and assistance to the survivors and families of law enforcement officers in Washington killed in the line of duty and to organize, finance, fund, construct, utilize, and maintain a memorial on the state capitol grounds to honor those fallen officers.

(c) The qualified nonprofit must meet all requirements set out in RCW 46.16.765.

Sec. 5. RCW 46.16.316 and 1997 c 291 s 10 are each amended to read as follows:

Except as provided in RCW 46.16.305:

(1) When a person who has been issued a special license plate or plates under section 1 of this act or RCW 46.16.301 as it existed before amendment by section 5, chapter 291, Laws of 1997, sells, trades, or otherwise transfers or releases ownership of the vehicle upon which the special license plate or plates have been displayed, he or she shall immediately report the transfer of such plate or plates to an acquired vehicle or vehicle eligible for such plates pursuant to departmental rule, or he or she shall surrender such plates to the department immediately if such surrender is required by departmental rule. If a person applies for a transfer of the plate or plates to another eligible vehicle, a transfer fee of five dollars shall be charged in addition to all other applicable fees. Such transfer fees shall be deposited in the motor vehicle fund. Failure to surrender the plates when required is a traffic infraction.

(2) If the special license plate or plates issued by the department become lost, defaced, damaged, or destroyed, application for a replacement special license plate or plates shall be made and fees paid as provided by law for the replacement of regular license plates.

Passed by the Senate March 9, 2004.

Passed by the House March 4, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.

CHAPTER 222

[Substitute Senate Bill 6325]

SPECIAL LICENSE PLATES—DESIGN AND QUALIFICATION

AN ACT Relating to special license plates; amending RCW 46.16.381, 46.16.735, and 46.16.755; adding a new section to chapter 46.16 RCW; and providing an effective date.

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

NEW SECTION. Sec. I. A new section is added to chapter 46.16 RCW to read as follows:

(1) The department shall design and issue disabled parking emblem versions of special license plates issued under (a) RCW 46.16.301; (b) RCW 46.16.305, except those plates issued under RCW 46.16.305 (1) and (2); (c) RCW 46.16.324; (d) RCW 46.16.745; (e) RCW 73.04.110; (f) RCW 73.04.115; or (g) RCW 46.16.301(1) (a), (b), or (c), as it existed before amendment by section 5, chapter 291, Laws of 1997. The disabled parking emblem version of the special plate must display the universal symbol of access that may be used in lieu of the parking placard issued to persons who qualify for special parking privileges under RCW 46.16.381. The department may not charge an additional fee for the issuance of the special disabled parking emblem license plate, except the regular motor vehicle registration fee, the fee associated with the particular special plate, and any other fees and taxes required to be paid upon registration of a motor vehicle. The emblem must be incorporated into the design of the special license plate in a manner to be determined by the department, and under existing vehicular licensing procedures and existing laws.

(2) Persons who qualify for special parking privileges under RCW 46.16.381, and who have applied and paid the appropriate fee for any of the special license plates listed in subsection (1) of this section, are entitled to receive from the department a special disabled parking emblem license plate. The special disabled parking emblem license plate may be used for one vehicle registered in the disabled person's name. Persons who have been issued the parking privileges or who are using a vehicle displaying the special disabled parking emblem license plate may park in places reserved for mobility disabled persons.

(3) The special disabled parking emblem license plate must be administered in the same manner as the plates issued under RCW 46.16.381.

(4) The department shall adopt rules to implement this section.

Sec. 2. RCW 46.16.381 and 2003 c 371 s 1 are each amended to read as follows:

(1) The director shall grant special parking privileges to any person who has a disability that limits or impairs the ability to walk and meets one of the following criteria, as determined by a licensed physician or an advanced registered nurse practitioner licensed under chapter 18.79 RCW:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Is severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;

(c) Is so severely disabled, that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) Uses portable oxygen;

(e) Is restricted by lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(f) Impairment by cardiovascular disease or cardiac condition to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American Heart Association; or

(g) Has a disability resulting from an acute sensitivity to automobile emissions which limits or impairs the ability to walk. The personal physician or advanced registered nurse practitioner of the applicant shall document that the disability is comparable in severity to the others listed in this subsection.

(2) The applications for disabled parking permits and temporary disabled parking permits are official state documents. Knowingly providing false information in conjunction with the application is a gross misdemeanor punishable under chapter 9A.20 RCW. The following statement must appear on each application form immediately below the physician's or advanced registered nurse practitioner's signature and immediately below the applicant's signature: "A disabled parking permit may be issued only for a medical necessity that severely affects mobility (RCW 46.16.381). Knowingly providing false information on this application is a gross misdemeanor. The penalty is up to one year in jail and a fine of up to \$5,000 or both."

(3) Persons who qualify for special parking privileges are entitled to receive from the department of licensing a removable windshield placard bearing the international symbol of access and an individual serial number, along with a special identification card bearing the name and date of birth of the person to whom the placard is issued, and the placard's serial number. The special identification card shall be issued no later than January 1, 2000, to all persons who are issued parking placards, including those issued for temporary disabilities, and special disabled parking license plates. The department shall design the placard to be displayed when the vehicle is parked by suspending it from the rearview mirror, or in the absence of a rearview mirror the card may be displayed on the dashboard of any vehicle used to transport the disabled person. Instead of regular motor vehicle license plates, disabled persons are entitled to receive special license plates under this section or section 1 of this act bearing the international symbol of access for one vehicle registered in the disabled person's name. Disabled persons who are not issued the special license plates are entitled to receive a second special placard upon submitting a written request to the department. Persons who have been issued the parking privileges and who are using a vehicle or are riding in a vehicle displaying the placard or special license plates (~~or placard~~) issued under this section or section 1 of this act may park in places reserved for mobility disabled persons. The director shall adopt rules providing for the issuance of special placards and license plates to public transportation authorities, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, senior citizen centers, private nonprofit agencies as defined in chapter 24.03 RCW, and vehicles registered with the department as cabulances that regularly transport disabled persons who have been determined eligible for special parking privileges provided under this section. The director may issue special license plates for a vehicle registered in the name of the public transportation authority, nursing home, boarding homes, senior citizen center, private nonprofit agency, or

cabulance service if the vehicle is primarily used to transport persons with disabilities described in this section. Public transportation authorities, nursing homes, boarding homes, senior citizen centers, private nonprofit agencies, and cabulance services are responsible for insuring that the special placards and license plates are not used improperly and are responsible for all fines and penalties for improper use.

(4) Whenever the disabled person transfers or assigns his or her interest in the vehicle, the special license plates shall be removed from the motor vehicle. If another vehicle is acquired by the disabled person and the vehicle owner qualifies for a special plate, the plate shall be attached to the vehicle, and the director shall be immediately notified of the transfer of the plate. If another vehicle is not acquired by the disabled person, the removed plate shall be immediately surrendered to the director.

(5) The special license plate shall be renewed in the same manner and at the time required for the renewal of regular motor vehicle license plates under this chapter. No special license plate may be issued to a person who is temporarily disabled. A person who has a condition expected to improve within six months may be issued a temporary placard for a period not to exceed six months. If the condition exists after six months a new temporary placard shall be issued upon receipt of a new certification from the disabled person's physician. The permanent parking placard and identification card of a disabled person shall be renewed at least every five years, as required by the director, by satisfactory proof of the right to continued use of the privileges. In the event of the permit holder's death, the parking placard and identification card must be immediately surrendered to the department. The department shall match and purge its disabled permit data base with available death record information at least every two months.

(6) Each person who has been issued a permanent disabled parking permit on or before July 1, 1998, must renew the permit no later than July 1, 2003, subject to a schedule to be set by the department, or the permit will expire.

(7) Additional fees shall not be charged for the issuance of the special placards or the identification cards. No additional fee may be charged for the issuance of the special license plates except the regular motor vehicle registration fee and any other fees and taxes required to be paid upon registration of a motor vehicle.

(8) Any unauthorized use of the special placard, special license plate issued under this section or section 1 of this act, or identification card is a traffic infraction with a monetary penalty of two hundred fifty dollars.

(9) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for a person to make inaccessible the access aisle located next to a space reserved for physically disabled persons. The clerk of the court shall report all violations related to this subsection to the department.

(10) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for physically disabled persons without a placard or special license plate issued under this section or section 1 of this act. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces in court or before the court appearance the placard or special license plate ((or

placard)) issued under this section or section 1 of this act required under this section. A local jurisdiction providing nonmetered, on-street parking places reserved for physically disabled persons may impose by ordinance time restrictions of no less than four hours on the use of these parking places. A local jurisdiction may impose by ordinance time restrictions of no less than four hours on the use of nonreserved, on-street parking spaces by vehicles displaying the special parking placards or special license plates issued under this section or section 1 of this act. All time restrictions must be clearly posted.

(11) The penalties imposed under subsections (9) and (10) of this section shall be used by that local jurisdiction exclusively for law enforcement. The court may also impose an additional penalty sufficient to reimburse the local jurisdiction for any costs it may have incurred in removal and storage of the improperly parked vehicle.

(12) Except as provided by subsection (2) of this section, it is a traffic infraction with a monetary penalty of two hundred fifty dollars for any person willfully to obtain a special license plate issued under this section or section 1 of this act, placard, or identification card in a manner other than that established under this section.

(13)(a) A law enforcement agency authorized to enforce parking laws may appoint volunteers, with a limited commission, to issue notices of infractions for violations of this section or RCW 46.61.581. Volunteers must be at least twenty-one years of age. The law enforcement agency appointing volunteers may establish any other qualifications the agency deems desirable.

(b) An agency appointing volunteers under this section must provide training to the volunteers before authorizing them to issue notices of infractions.

(c) A notice of infraction issued by a volunteer appointed under this subsection has the same force and effect as a notice of infraction issued by a police officer for the same offense.

(d) A police officer or a volunteer may request a person to show the person's identification card or special parking placard when investigating the possibility of a violation of this section. If the request is refused, the person in charge of the vehicle may be issued a notice of infraction for a violation of this section.

(14) For second or subsequent violations of this section, in addition to a monetary fine, the violator must complete a minimum of forty hours of:

(a) Community restitution for a nonprofit organization that serves the disabled community or persons having disabling diseases; or

(b) Any other community restitution that may sensitize the violator to the needs and obstacles faced by persons who have disabilities.

(15) The court may not suspend more than one-half of any fine imposed under subsection (8), (9), (10), or (12) of this section.

Sec. 3. RCW 46.16.735 and 2003 c 196 s 201 are each amended to read as follows:

(1) For an organization to qualify for a special license plate under the special license plate approval program created in RCW 46.16.705 through 46.16.765, the sponsoring organization must submit documentation in conjunction with the application to the department that verifies:

(a) That the organization is a nonprofit organization, as defined in 26 U.S.C. Sec. 501(c)(3). The department may request a copy of an Internal Revenue Service ruling to verify an organization's nonprofit status; and

(b) That the organization is located in Washington and has registered as a charitable organization with the secretary of state's office as required by law.

(2) For a governmental body to qualify for a special license plate under the special license plate approval program created in RCW 46.16.705 through 46.16.765, a governmental body must be:

(a) A political subdivision, including but not limited to any county, city, town, municipal corporation, or special purpose taxing district that has the express permission of the political subdivision's executive body to sponsor a special license plate;

(b) A federally recognized tribal government that has received the approval of the executive body of that government to sponsor a special license plate;

(c) A state agency that has ~~((both))~~ received approval from the director of the agency or the department head ~~((, and has the express statutory authority to sponsor a special license plate))~~; or

(d) A community or technical college that has the express permission of the college's board of trustees to sponsor a special license plate.

Sec. 4. RCW 46.16.755 and 2003 c 196 s 302 are each amended to read as follows:

(1)(a) Revenues generated from the sale of special license plates for those sponsoring organizations who used the application process in RCW 46.16.745(3) must be deposited into the motor vehicle account until the department determines that the state's implementation costs have been fully reimbursed. The department shall apply the application fee required under RCW 46.16.745(3)(a) towards those costs.

(b) When it is determined that the state has been fully reimbursed the department must notify the house of representatives and senate transportation committees, the sponsoring organization, and the treasurer, and commence the distribution of the revenue as otherwise provided by law.

(2) If reimbursement does not occur within ~~((the two-year time frame))~~ two years from the date the plate is first offered for sale to the public, the special license plate series must be placed in probationary status for a period of one year from that date. If the state is still not fully reimbursed for its implementation costs after the one-year probation, the plate series must be discontinued immediately. Special plates issued before discontinuation are valid until replaced under RCW 46.16.233. ~~((The state must be reimbursed for its portion of the implementation costs within two years from the date the new plate series goes on sale to the public.))~~

(3) The special license plate applicant trust account is created in the custody of the state treasurer. All receipts from special license plate applicants, except the application fee as provided in RCW 46.16.745(3), must be deposited into the account. Only the director of the department or the director's designee may authorize disbursements from the account. The account is not subject to the allotment procedures under chapter 43.88 RCW, nor is an appropriation required for disbursements.

(4) The department shall provide the special license plate applicant with a written receipt for the payment.

(5) The department shall maintain a record of each special license plate applicant trust account deposit, including, but not limited to, the name and

address of each special license plate applicant whose funds are being deposited, the amount paid, and the date of the deposit.

(6) After the department receives written notice that the special license plate applicant's application has been:

(a) Approved by the legislature the director shall request that the money be transferred to the motor vehicle account;

(b) Denied by the special license plate review board or the legislature the director shall provide a refund to the applicant within thirty days; or

(c) Withdrawn by the special license plate applicant the director shall provide a refund to the applicant within thirty days.

NEW SECTION. Sec. 5. Sections 1 and 2 of this act take effect November 1, 2004.

Passed by the Senate February 3, 2004.

Passed by the House March 4, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.

CHAPTER 223

[Substitute Senate Bill 6676]

LICENSE PLATES—OWNERSHIP AND TRANSFER

AN ACT Relating to transfer of vehicle license plates and ownership; and amending RCW 46.12.101, 46.16.023, 46.16.290, 46.16.316, 46.16.590, and 73.04.110.

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

Sec. 1. RCW 46.12.101 and 2003 c 264 s 7 are each amended to read as follows:

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

(1) If an owner transfers his or her interest in a vehicle, other than by the creation, deletion, or change of a security interest, the owner shall, at the time of the delivery of the vehicle, execute an assignment to the transferee and provide an odometer disclosure statement under RCW 46.12.124 on the certificate of ownership or as the department otherwise prescribes, and cause the certificate and assignment to be transmitted to the transferee. The owner shall notify the department or its agents or subagents, in writing, on the appropriate form, of the date of the sale or transfer, the name and address of the owner and of the transferee, the transferee's driver's license number if available, and such description of the vehicle, including the vehicle identification number, (~~the license plate number, or both,~~) as may be required in the appropriate form provided or approved for that purpose by the department. The report of sale will be deemed properly filed if all information required in this section is provided on the form and includes a department-authorized notation that the document was received by the department, its agents, or subagents on or before the fifth day after the sale of the vehicle, excluding Saturdays, Sundays, and state and federal holidays. Agents and subagents shall immediately electronically transmit the seller's report of sale to the department. Reports of sale processed and recorded by the department's agents or subagents may be subject to fees as specified in RCW 46.01.140 (4)(a) or (5)(b). By January 1, 2003, the department shall create

a system enabling the seller of a vehicle to transmit the report of sale electronically. The system created by the department must immediately indicate on the department's vehicle record that a seller's report of sale has been filed.

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

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

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

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

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

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

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

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

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

Sec. 2. RCW 46.16.023 and 1993 c 488 s 5 are each amended to read as follows:

(1) Every owner or lessee of a vehicle seeking to apply for an excise tax exemption under RCW 82.08.0287, 82.12.0282, or 82.44.015 shall apply to the director for, and upon satisfactory showing of eligibility, receive in lieu of the regular motor vehicle license plates for that vehicle, special plates of a distinguishing separate numerical series or design, as the director shall prescribe. In addition to paying all other initial fees required by law, each applicant for the special license plates shall pay an additional license fee of twenty-five dollars upon the issuance of such plates. The special fee shall be deposited in the motor vehicle fund. Application for renewal of the license plates shall be as prescribed for the renewal of other vehicle licenses. No renewal is required for vehicles exempted under RCW 46.16.020.

(2) Whenever the ownership of a vehicle receiving special plates under subsection (1) of this section is transferred or assigned, the plates shall be removed from the motor vehicle, and if another vehicle qualifying for special plates is acquired, the plates shall be transferred to that vehicle for a fee of ~~((five))~~ ten dollars, and the director shall be immediately notified of the transfer of the plates. Otherwise the removed plates shall be immediately forwarded to the director to be canceled. Whenever the owner or lessee of a vehicle receiving special plates under subsection (1) of this section is for any reason relieved of the tax-exempt status, the special plates shall immediately be forwarded to the director along with an application for replacement plates and the required fee. Upon receipt the director shall issue the license plates that are otherwise provided by law.

(3) Any person who knowingly makes any false statement of a material fact in the application for a special plate under subsection (1) of this section is guilty of a gross misdemeanor.

Sec. 3. RCW 46.16.290 and 1997 c 291 s 4 are each amended to read as follows:

(1) In any case of a valid sale or transfer of the ownership of any vehicle, the right to the certificates properly transferable therewith, except as provided in RCW 46.16.280, and to the vehicle license plates passes to the purchaser or transferee. It is unlawful for the holder of such certificates, except as provided in RCW 46.16.280, or vehicle license plates to fail, neglect, or refuse to endorse the certificates and deliver the vehicle license plates to the purchaser or transferee.

(2)(a) If the sale or transfer is of a vehicle licensed with current standard issue license plates, the vehicle license plates may be retained and displayed upon a vehicle obtained in replacement of the vehicle so sold or transferred. If a person applies for a transfer of the plate or plates to another eligible vehicle, the plates must be transferred to a vehicle requiring the same type of plate. A transfer fee of ten dollars must be charged in addition to all other applicable fees. The transfer fees must be deposited in the motor vehicle fund.

(b) If the sale or transfer is of a vehicle licensed by the state or any county, city, town, school district, or other political subdivision entitled to exemption as provided by law, or, if the vehicle is licensed with personalized plates, amateur radio operator plates, medal of honor plates, disabled person plates, disabled veteran plates, prisoner of war plates, or other special license plates issued under RCW 46.16.301 as it existed before amendment by section 5, chapter 291, Laws of 1997, the vehicle license plates therefor shall be retained and may be displayed upon a vehicle obtained in replacement of the vehicle so sold or transferred.

Sec. 4. RCW 46.16.316 and 1997 c 291 s 10 are each amended to read as follows:

Except as provided in RCW 46.16.305:

(1) When a person who has been issued a special license plate or plates: (a) Under RCW 46.16.301 as it existed before amendment by section 5, chapter 291, Laws of 1997, or under RCW 46.16.305(2) or 46.16.324; or (b) approved by the special license plate review board under RCW 46.16.715 through 46.16.775 sells, trades, or otherwise transfers or releases ownership of the vehicle upon which the special license plate or plates have been displayed, he or she shall immediately report the transfer of such plate or plates to an acquired vehicle or vehicle eligible for such plates pursuant to departmental rule, or he or she shall surrender such plates to the department immediately if such surrender is required by departmental rule. If a person applies for a transfer of the plate or plates to another eligible vehicle, a transfer fee of ~~((five))~~ ten dollars shall be charged in addition to all other applicable fees. Such transfer fees shall be deposited in the motor vehicle fund. Failure to surrender the plates when required is a traffic infraction.

(2) If the special license plate or plates issued by the department become lost, defaced, damaged, or destroyed, application for a replacement special license plate or plates shall be made and fees paid as provided by law for the replacement of regular license plates.

Sec. 5. RCW 46.16.590 and 1975 c 59 s 5 are each amended to read as follows:

Whenever any person who has been issued personalized license plates applies to the department for transfer of such plates to a subsequently acquired vehicle or camper eligible for personalized license plates, a transfer fee of ~~((five))~~ ten dollars shall be charged in addition to all other appropriate fees. Such transfer fees shall be deposited in the motor vehicle fund.

Sec. 6. RCW 73.04.110 and 1987 c 98 s 2 are each amended to read as follows:

Any person who is a veteran as defined in RCW 41.04.005 who submits to the department of licensing satisfactory proof of a service-connected disability rating from the veterans administration or the military service from which the veteran was discharged and:

- (1) Has lost the use of both hands or one foot;
- (2) Was captured and incarcerated for more than twenty-nine days by an enemy of the United States during a period of war with the United States;
- (3) Has become blind in both eyes as the result of military service; or

(4) Is rated by the veterans administration or the military service from which the veteran was discharged and is receiving service-connected compensation at the one hundred percent rate that is expected to exist for more than one year; is entitled to regular or special license plates issued by the department of licensing. The special license plates shall bear distinguishing marks, letters, or numerals indicating that the motor vehicle is owned by a disabled veteran or former prisoner of war. This license shall be issued annually for one personal use vehicle without payment of any license fees or excise tax thereon. Whenever any person who has been issued license plates under the provisions of this section applies to the department for transfer of the plates to a subsequently acquired motor vehicle, a transfer fee of ~~((five))~~ ten dollars shall be charged in addition to all other appropriate fees. The department may periodically verify the one hundred percent rate as provided in subsection (4) of this section.

Any person who has been issued free motor vehicle license plates under this section prior to July 1, 1983, shall continue to be eligible for the annual free license plates.

For the purposes of this section, "blind" means the definition of "blind" used by the state of Washington in determining eligibility for financial assistance to the blind under Title 74 RCW.

Any unauthorized use of a special plate is a gross misdemeanor.

Passed by the Senate February 13, 2004.

Passed by the House March 10, 2004.

Approved by the Governor March 29, 2004.

Filed in Office of Secretary of State March 29, 2004.

CHAPTER 224

[Substitute House Bill 3141]

CARBON DIOXIDE EMISSIONS

AN ACT Relating to mitigating carbon dioxide emissions resulting from fossil-fueled electrical generation; adding a new section to chapter 70.94 RCW; and adding a new chapter to Title 80 RCW.

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

NEW SECTION. Sec. 1. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant" has the meaning provided in RCW 80.50.020 and includes an applicant for a permit for a fossil-fueled thermal electric generation facility subject to RCW 70.94.152 and section 2(I) (b) or (d) of this act.

(2) "Authority" means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(3) "Carbon credit" means a verified reduction in carbon dioxide or carbon dioxide equivalents that is registered with a state, national, or international trading authority or exchange that has been recognized by the council.

(4) "Carbon dioxide equivalents" means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

(5) "Cogeneration credit" means the carbon dioxide emissions that the council, department, or authority, as appropriate, estimates would be produced on an annual basis by a stand-alone industrial and commercial facility equivalent

in operating characteristics and output to the industrial or commercial heating or cooling process component of the cogeneration plant.

(6) "Cogeneration plant" means a fossil-fueled thermal power plant in which the heat or steam is also used for industrial or commercial heating or cooling purposes and that meets federal energy regulatory commission standards for qualifying facilities under the public utility regulatory policies act of 1978.

(7) "Commercial operation" means the date that the first electricity produced by a facility is delivered for commercial sale to the power grid.

(8) "Council" means the energy facility site evaluation council created by RCW 80.50.030.

(9) "Department" means the department of ecology.

(10) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material to produce heat for the generation of electricity.

(11) "Mitigation plan" means a proposal that includes the process or means to achieve carbon dioxide mitigation through use of mitigation projects or carbon credits.

(12) "Mitigation project" means one or more of the following:

(a) Projects or actions that are implemented by the certificate holder or order of approval holder, directly or through its agent, or by an independent qualified organization to mitigate the emission of carbon dioxide produced by the fossil-fueled thermal electric generation facility. This term includes but is not limited to the use of, energy efficiency measures, clean and efficient transportation measures, qualified alternative energy resources, demand side management of electricity consumption, and carbon sequestration programs;

(b) Direct application of combined heat and power (cogeneration);

(c) Verified carbon credits traded on a recognized trading authority or exchange; or

(d) Enforceable and permanent reductions in carbon dioxide or carbon dioxide equivalents through process change, equipment shutdown, or other activities under the control of the applicant and approved as part of a carbon dioxide mitigation plan.

(13) "Order of approval" means an order issued under RCW 70.94.152 with respect to a fossil-fueled thermal electric generation facility subject to section 2(1) (b) or (d) of this act.

(14) "Permanent" means that emission reductions used to offset emission increases are assured for the life of the corresponding increase, whether unlimited or limited in duration.

(15) "Qualified alternative energy resource" has the same meaning as in RCW 19.29A.090.

(16) "Station generating capability" means the maximum load a generator can sustain over a given period of time without exceeding design limits, and measured using maximum continuous electric generation capacity, less net auxiliary load, at average ambient temperature and barometric pressure.

(17) "Total carbon dioxide emissions" means:

(a) For a fossil-fueled thermal electric generation facility described under section 2(1) (a) and (b) of this act, the amount of carbon dioxide emitted over a thirty-year period based on the manufacturer's or designer's guaranteed total net station generating capability, new equipment heat rate, an assumed sixty percent

capacity factor for facilities under the council's jurisdiction or sixty percent of the operational limitations on facilities subject to an order of approval, and taking into account any enforceable limitations on operational hours or fuel types and use; and

(b) For a fossil-fueled thermal electric generation facility described under section 2(1) (c) and (d) of this act, the amount of carbon dioxide emitted over a thirty-year period based on the proposed increase in the amount of electrical output of the facility that exceeds the station generation capability of the facility prior to the applicant applying for certification or an order of approval pursuant to section 2(1) (c) and (d) of this act, new equipment heat rate, an assumed sixty percent capacity factor for facilities under the council's jurisdiction or sixty percent of the operational limitations on facilities subject to an order of approval, and taking into account any enforceable limitations on operational hours or fuel types and use.

NEW SECTION. Sec. 2. (1) The provisions of this chapter apply to:

(a) New fossil-fueled thermal electric generation facilities with station-generating capability of three hundred fifty thousand kilowatts or more and fossil-fueled floating thermal electric generation facilities of one hundred thousand kilowatts or more under RCW 80.50.020(14)(a), for which an application for site certification is made to the council after July 1, 2004;

(b) New fossil-fueled thermal electric generation facilities with station-generating capability of more than twenty-five thousand kilowatts, but less than three hundred fifty thousand kilowatts, except for fossil-fueled floating thermal electric generation facilities under the council's jurisdiction, for which an application for an order of approval has been submitted after July 1, 2004;

(c) Fossil-fueled thermal electric generation facilities with station-generating capability of three hundred fifty thousand kilowatts or more that have an existing site certification agreement and, after July 1, 2004, apply to the council to increase the output of carbon dioxide emissions by fifteen percent or more through permanent changes in facility operations or modification or equipment; and

(d) Fossil-fueled thermal electric generation facilities with station-generating capability of more than twenty-five thousand kilowatts, but less than three hundred fifty thousand kilowatts, except for fossil-fueled floating thermal electric generation facilities under the council's jurisdiction, that have an existing order of approval and, after July 1, 2004, apply to the department or authority, as appropriate, to permanently modify the facility so as to increase its station-generating capability by at least twenty-five thousand kilowatts or to increase the output of carbon dioxide emissions by fifteen percent or more, whichever measure is greater.

(2)(a) A proposed site certification agreement submitted to the governor under RCW 80.50.100 and a final site certification agreement issued under RCW 80.50.100 shall include an approved carbon dioxide mitigation plan.

(b) For fossil-fueled thermal electric generation facilities not under jurisdiction of the council, the order of approval shall require an approved carbon dioxide mitigation plan.

(c) Site certification agreement holders or order of approval holders may request, at any time, a change in conditions of an approved carbon dioxide

mitigation plan if the council, department, or authority, as appropriate, finds that the change meets all requirements and conditions for approval of such plans.

(3) An applicant for a fossil-fueled thermal electric generation facility shall include one or a combination of the following carbon dioxide mitigation options as part of its mitigation plan:

- (a) Payment to a third party to provide mitigation;
- (b) Direct purchase of permanent carbon credits; or
- (c) Investment in applicant-controlled carbon dioxide mitigation projects, including combined heat and power (cogeneration).

(4) Fossil-fueled thermal electric generation facilities that receive site certification approval or an order of approval shall provide mitigation for twenty percent of the total carbon dioxide emissions produced by the facility.

(5) If the certificate holder or order of approval holder chooses to pay a third party to provide the mitigation, the mitigation rate shall be one dollar and sixty cents per metric ton of carbon dioxide to be mitigated. For a cogeneration plant, the monetary amount is based on the difference between twenty percent of the total carbon dioxide emissions and the cogeneration credit.

(a) Through rule making, the council may adjust the rate per ton biennially as long as any increase or decrease does not exceed fifty percent of the current rate. The department or authority shall use the adjusted rate established by the council pursuant to this subsection for fossil-fueled thermal electric generation facilities subject to the provisions of this chapter.

(b) In adjusting the mitigation rate the council shall consider, but is not limited to, the current market price of a ton of carbon dioxide. The council's adjusted mitigation rate shall be consistent with RCW 80.50.010(3).

(6) The applicant may choose to make to the third party a lump sum payment or partial payment over a period of five years.

(a) Under the lump sum payment option, the payment amount is determined by multiplying the total carbon dioxide emissions by the twenty percent mitigation requirement under subsection (4) of this section and by the per ton mitigation rate established under subsection (5) of this section.

(b) No later than one hundred twenty days after the start of commercial operation, the certificate holder or order of approval holder shall make a one-time payment to the independent qualified organization for the amount determined under subsection (5) of this section.

(c) As an alternative to a one-time payment, the certificate holder or order of approval holder may make a partial payment of twenty percent of the amount determined under subsection (5) of this section no later than one hundred twenty days after commercial operation and a payment in the same amount or as adjusted according to subsection (5)(a) of this section, on the anniversary date of the initial payment in each of the following four years. With the initial payment, the certificate holder or order of approval holder shall provide a letter of credit or other comparable security acceptable to the council or the department for the remaining eighty percent mitigation payment amount including possible changes to the rate per metric ton from rule making under subsection (5)(a) of this section.

NEW SECTION. Sec. 3. (1) Carbon dioxide mitigation plans relying on purchase of permanent carbon credits must meet the following criteria:

(a) Credits must derive from real, verified, permanent, and enforceable carbon dioxide or carbon dioxide equivalents emission mitigation not otherwise required by statute, regulation, or other legal requirements;

(b) The credits must be acquired after July 1, 2004; and

(c) The credits may not have been used for other carbon dioxide mitigation projects.

(2) Permanent carbon credits purchased for project mitigation shall not be resold unless approved by the council, department, or authority.

NEW SECTION. Sec. 4. (1) The carbon dioxide mitigation option that provides for direct investment shall be implemented through mitigation projects conducted directly by, or under the control of, the certificate holder or order of approval holder.

(2) Mitigation projects must be approved by the council, department, or authority, as appropriate, and made a condition of the proposed and final site certification agreement or order of approval. Direct investment mitigation projects shall be approved if the mitigation projects provide a reasonable certainty that the performance requirements of the mitigation projects will be achieved and the mitigation projects were implemented after July 1, 2004. No certificate holder or order of approval holder shall be required to make direct investments that would exceed the cost of making a lump sum payment to a third party, had the certificate holder or order of approval holder chosen that option under section 2 of this act.

(3) Mitigation projects must be fully in place within a reasonable time after the start of commercial operation. Failure to implement an approved mitigation plan is subject to enforcement under chapter 80.50 or 70.94 RCW.

(4) The certificate holder or order of approval holder may not use more than twenty percent of the total funds for the selection, monitoring, and evaluation of mitigation projects and the management and enforcement of contracts.

(5)(a) For facilities under the jurisdiction of the council, the implementation of a carbon dioxide mitigation project, other than purchase of a carbon credit shall be monitored by an independent entity for conformance with the performance requirements of the carbon dioxide mitigation plan. The independent entity shall make available the mitigation project monitoring results to the council.

(b) For facilities under the jurisdiction of the department or authority pursuant to section 2(1) (b) or (c) of this act, the implementation of a carbon dioxide mitigation project, other than a purchase of carbon dioxide equivalent emission reduction credits, shall be monitored by the department or authority issuing the order of approval.

(6) Upon promulgation of federal requirements for carbon dioxide mitigation for fossil-fueled thermal electric generation facilities, those requirements may be deemed by the council, department, or authority to be equivalent and a replacement for the requirements of this section.

NEW SECTION. Sec. 5. (1) The council shall maintain a list of independent qualified organizations with proven experience in emissions mitigation activities and a demonstrated ability to carry out their activities in an efficient, reliable, and cost-effective manner.

(2) An independent qualified organization shall not use more than twenty percent of the total funds for selection, monitoring, and evaluation of mitigation projects and the management and enforcement of contracts. None of these funds shall be used to lobby federal, state, and local agencies, their elected officials, officers, or employees.

(3) Before signing contracts to purchase offsets with funds from certificate holders or order of approval holders, an independent qualified organization must demonstrate to the council that the mitigation projects it proposes to use provides a reasonable certainty that the performance requirements of the carbon dioxide mitigation projects will be achieved.

(4) The independent qualified organization shall permit the council to appoint up to three persons to inspect plans, operation, and compliance activities of the organization and to audit financial records and performance measures for carbon dioxide mitigation projects using carbon dioxide mitigation money paid by certificate holders or order of approval holders under this chapter.

(5) An independent qualified organization must file biennial reports with the council, the department, or authority on the performance of carbon dioxide mitigation projects, including the amount of carbon dioxide reductions achieved and a statement of cost for the mitigation period.

NEW SECTION. Sec. 6. Reasonable and necessary costs incurred by the council in implementing and administering this chapter shall be assessed against applicants and holders of site certification agreements that are subject to the requirements of this chapter.

NEW SECTION. Sec. 7. The council, department, and authority shall adopt rules to carry out this chapter.

NEW SECTION. Sec. 8. A new section is added to chapter 70.94 RCW to read as follows:

(1) For fossil-fueled electric generation facilities having more than twenty-five thousand kilowatts station generating capability but less than three hundred fifty thousand kilowatts station generation capability, except for fossil-fueled floating thermal electric generation facilities under the jurisdiction of the energy facility site evaluation council pursuant to RCW 80.50.010, the department or authority shall implement a carbon dioxide mitigation program consistent with the requirements of chapter 80.— RCW (sections 1 through 7 of this act).

(2) For mitigation projects conducted directly by or under the control of the applicant, the department or local air authority shall approve or deny the mitigation plans, as part of its action to approve or deny an application submitted under RCW 70.94.152 based upon whether or not the mitigation plan is consistent with the requirements of chapter 80.— RCW (sections 1 through 7 of this act).

(3) The department or authority may determine, assess, and collect fees sufficient to cover the costs to review and approve or deny the carbon dioxide mitigation plan components of an order of approval issued under RCW 70.94.152. The department or authority may also collect fees sufficient to cover its additional costs to monitor conformance with the carbon dioxide mitigation plan components of the registration and air operating permit programs authorized in RCW 70.94.151 and 70.94.161. The department or authority shall

track its costs related to review, approval, and monitoring conformance with carbon dioxide mitigation plans.

NEW SECTION. Sec. 9. Sections 1 through 7 of this act constitute a new chapter in Title 80 RCW.

Passed by the House March 9, 2004.

Passed by the Senate March 3, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 225

[Engrossed Substitute Senate Bill 6415]

STORM WATER PERMITS

AN ACT Relating to conditioning industrial and construction storm water general discharge permits; adding new sections to chapter 90.48 RCW; creating new sections; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) The legislature finds that the federal permit program under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., and the state water pollution control laws provide numerous environmental and public health benefits to the citizens of Washington and to the state. The legislature also finds that failure to prevent and control pollution discharges, including those associated with storm water runoff, can degrade water quality and damage the environment, public health, and industries dependent on clean water such as shellfish production.

(2) The legislature finds the nature of storm water presents unique challenges and difficulties in meeting the permitting requirements under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., including compliance with technology and water quality-based standards.

(3) The legislature finds that the federal clean water act, 33 U.S.C. Sec. 1251 et seq., requires certain larger construction sites and industrial facilities to obtain storm water permits under the national pollutant discharge elimination system permit program. The legislature also finds that under phase two of this program, smaller construction sites are also required to obtain storm water permits for their discharges.

(4) The legislature finds the department of ecology has been using general permits to permit categories of similar dischargers, including storm water associated with industrial and construction activities. The legislature also finds general permits must comply with all applicable requirements of the federal clean water act, 33 U.S.C. Sec. 1251 et seq., and the state water pollution control act including technology and water quality-based permitting requirements. The legislature further finds general permits may not always be the best solution for an individual discharger, especially when establishing water quality-based permitting requirements.

(5) The legislature finds that where sources within a specific category or subcategory of dischargers are subject to water quality-based limits imposed under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., the sources in that

specific category or subcategory must be subject to the same water quality-based limits.

(6) For this reason, the legislature encourages, to the extent allowed under existing state and federal law, an adaptive management approach to permitting storm water discharges.

(7) The legislature finds that storm water management must satisfy state and federal water quality requirements while also providing for flexibility in meeting such requirement to help ensure cost-effective storm water management.

(8) The legislature finds that the permitting of new and existing dischargers into waters listed under 33 U.S.C. Sec. 1313(d) (section 303(d) of the federal clean water act) presents specific challenges and is subject to additional permitting restrictions under the federal clean water act, 33 U.S.C. Sec. 1251 et seq.

(9) The legislature declares that general permits can be an effective and efficient permitting mechanism for permitting large numbers of similar dischargers.

(10) The legislature declares that an inspection and technical assistance program for industrial and construction storm water general permits is needed to ensure an effective permitting program. The legislature also declares that such a program should be fully funded to ensure its success.

NEW SECTION. Sec. 2. A new section is added to chapter 90.48 RCW to read as follows:

The provisions of this section apply to the construction and industrial storm water general permits issued by the department pursuant to the federal clean water act, 33 U.S.C. Sec. 1251 et seq., and this chapter.

(1) Effluent limitations shall be included in construction and industrial storm water general permits as required under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., and its implementing regulations. In accordance with federal clean water act requirements, pollutant specific, water quality-based effluent limitations shall be included in construction and industrial storm water general permits if there is a reasonable potential to cause or contribute to an excursion of a state water quality standard.

(2) Subject to the provisions of this section, both technology and water quality-based effluent limitations may be expressed as:

- (a) Numeric effluent limitations;
- (b) Narrative effluent limitations; or
- (c) A combination of numeric and narrative effluent discharge limitations.

(3) The department must condition storm water general permits for industrial and construction activities issued under the national pollutant discharge elimination system of the federal clean water act to require compliance with numeric effluent discharge limits when such discharges are subject to:

- (a) Numeric effluent limitations established in federally adopted, industry-specific effluent guidelines;
- (b) State developed, industry-specific performance-based numeric effluent limitations;
- (c) Numeric effluent limitations based on a completed total maximum daily load analysis or other pollution control measures; or
- (d) A determination by the department that:

(i) The discharges covered under either the construction or industrial storm water general permits have a reasonable potential to cause or contribute to violation of state water quality standards; and

(ii) Effluent limitations based on nonnumeric best management practices are not effective in achieving compliance with state water quality standards.

(4) In making a determination under subsection (3)(d) of this section, the department shall use procedures that account for:

(a) Existing controls on point and nonpoint sources of pollution;

(b) The variability of the pollutant or pollutant parameter in the storm water discharge; and

(c) As appropriate, the dilution of the storm water in the receiving waters.

(5) Narrative effluent limitations requiring both the implementation of best management practices, when designed to satisfy the technology and water quality-based requirements of the federal clean water act, 33 U.S.C. Sec. 1251 et seq., and compliance with water quality standards, shall be used for construction and industrial storm water general permits, unless the provisions of subsection (3) of this section apply.

(6) Compliance with water quality standards shall be presumed, unless discharge monitoring data or other site specific information demonstrates that a discharge causes or contributes to violation of water quality standards, when the permittee is:

(a) In full compliance with all permit conditions, including planning, sampling, monitoring, reporting, and recordkeeping conditions; and

(b)(i) Fully implementing storm water best management practices contained in storm water technical manuals approved by the department, or practices that are demonstrably equivalent to practices contained in storm water technical manuals approved by the department, including the proper selection, implementation, and maintenance of all applicable and appropriate best management practices for on-site pollution control.

(ii) For the purposes of this section, "demonstrably equivalent" means that the technical basis for the selection of all storm water best management practices are documented within a storm water pollution prevention plan. The storm water pollution prevention plan must document:

(A) The method and reasons for choosing the storm water best management practices selected;

(B) The pollutant removal performance expected from the practices selected;

(C) The technical basis supporting the performance claims for the practices selected, including any available existing data concerning field performance of the practices selected;

(D) An assessment of how the selected practices will comply with state water quality standards; and

(E) An assessment of how the selected practices will satisfy both applicable federal technology-based treatment requirements and state requirements to use all known, available, and reasonable methods of prevention, control, and treatment.

(7)(a) The department shall modify the industrial storm water general permit to require compliance by May 1, 2009, with appropriately derived numeric water quality-based effluent limitations for existing discharges to water

bodies listed as impaired according to 33 U.S.C. Sec. 1313(d) (Sec. 303(d) of the federal clean water act, 33 U.S.C. Sec. 1251 et seq.).

(b) No later than September 1, 2008, the department shall report to the appropriate committees of the legislature specifying how the numeric effluent limitation in (a) of this subsection would be implemented. The report shall identify the number of dischargers to impaired water bodies and provide an assessment of anticipated compliance with the numeric effluent limitation established by (a) of this subsection.

(8)(a) Construction and industrial storm water general permits issued by the department shall include an enforceable adaptive management mechanism that includes appropriate monitoring, evaluation, and reporting. The adaptive management mechanism shall include elements designed to result in permit compliance and shall include, at a minimum, the following elements:

- (i) An adaptive management indicator, such as monitoring benchmarks;
- (ii) Monitoring;
- (iii) Review and revisions to the storm water pollution prevention plan;
- (iv) Documentation of remedial actions taken; and
- (v) Reporting to the department.

(b) Construction and industrial storm water general permits issued by the department also shall include the timing and mechanisms for implementation of treatment best management practices.

(9) Construction and industrial storm water discharges authorized under general permits must not cause or have the reasonable potential to cause or contribute to a violation of an applicable water quality standard. Where a discharge has already been authorized under a national pollutant discharge elimination system storm water permit and it is later determined to cause or have the reasonable potential to cause or contribute to the violation of an applicable water quality standard, the department may notify the permittee of such a violation.

(10) Once notified by the department of a determination of reasonable potential to cause or contribute to the violation of an applicable water quality standard, the permittee must take all necessary actions to ensure future discharges do not cause or contribute to the violation of a water quality standard and document those actions in the storm water pollution prevention plan and a report timely submitted to the department. If violations remain or recur, coverage under the construction or industrial storm water general permits may be terminated by the department, and an alternative general permit or individual permit may be issued. Compliance with the requirements of this subsection does not preclude any enforcement activity provided by the federal clean water act, 33 U.S.C. Sec. 1251 et seq., for the underlying violation.

(11) Receiving water sampling shall not be a requirement of an industrial or construction storm water general permit except to the extent that it can be conducted without endangering the health and safety of persons conducting the sampling.

(12) The department may authorize mixing zones only in compliance with and after making determinations mandated by the procedural and substantive requirements of applicable laws and regulations.

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

The provisions of this section apply to the construction and industrial storm water general permits issued by the department pursuant to the federal clean water act, 33 U.S.C. Sec. 1251 et seq., and this chapter.

(1) By January 1, 2005, the department shall initiate an inspection and compliance program for all permittees covered under the construction and industrial storm water general permits. The program shall include, but may not be limited to, the:

(a) Provision of compliance assistance and survey for evidence of permit violations and violations of water quality standards;

(b) Identification of corrective actions for actual or imminent discharges that violate or could violate the state's water quality standards;

(c) Monitoring of the development and implementation of storm water pollution prevention plans and storm water monitoring plans;

(d) Identification of dischargers who would benefit from follow-up inspection or compliance assistance programs; and

(e) Collection and analysis of discharge and receiving water samples whenever practicable and when deemed appropriate by the department, and other evaluation of discharges to determine the potential for causing or contributing to violations of water quality standards.

(2) The department's inspections under this section shall be conducted without prior notice to permittees whenever practicable.

(3) Follow-up inspections shall be conducted by the department to ensure that corrective and other actions as identified in the course of initial inspections are being carried out. The department shall also take such additional actions as are necessary to ensure compliance with state and federal water quality requirements, provided that all permittees must be inspected once within two years of the start of this program and each permittee must be inspected at least once each permit cycle thereafter.

(4) Permittees must be prioritized for inspection based on the development of criteria that include, but are not limited to, the following factors:

(a) Compliance history, including submittal or nonsubmittal of discharge monitoring reports;

(b) Monitoring results in relationship to permit benchmarks; and

(c) Discharge to impaired waters of the state.

(5) Nothing in this section shall be construed to limit the department's enforcement discretion.

NEW SECTION. Sec. 4. No later than December 31, 2006, the department of ecology shall submit a report to the appropriate committees of the legislature regarding methods to improve the effectiveness of permit monitoring requirements in construction and industrial storm water general permits. The department of ecology shall study and evaluate how monitoring requirements could be improved to determine the effectiveness of storm water best management practices and compliance with state water quality standards. In this study the department also shall evaluate monitoring requirements that are necessary for determining compliance or noncompliance with state water quality standards and shall evaluate the feasibility of including such monitoring in future permits. When conducting this study, the department shall consult with experts in the fields of monitoring, storm water management, and water quality,

and when necessary the department shall conduct field work to evaluate the practicality and usefulness of alternative monitoring proposals.

NEW SECTION. Sec. 5. A new section is added to chapter 90.48 RCW to read as follows:

(1) The department shall establish permit fees for construction and industrial storm water general permits as necessary to fund the provisions of sections 2 and 3 of this act. When calculating appropriate fee amounts, the department shall take into consideration differences between large and small businesses and the economic impacts caused by permit fees on those businesses. Fees established under this section shall be adopted in accordance with chapter 34.05 RCW.

(2) In its biennial discharge fees progress report required by RCW 90.48.465, the department shall include a detailed accounting regarding the method used to establish permit fees, the amount of permit fees collected, and the expenditure of permit fees. The detailed accounting shall include data on inspections conducted and the staff hired to implement the provisions of sections 2 and 3 of this act.

NEW SECTION. Sec. 6. If any portion of sections 2 and 3 of this act are found to be in conflict with the federal clean water act, that portion alone is void.

NEW SECTION. Sec. 7. This act expires January 1, 2015.

NEW SECTION. Sec. 8. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2004, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 10, 2004.

Passed by the House March 9, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 226

[Substitute Senate Bill 6641]

OIL SPILLS

AN ACT Relating to oil spill management; amending RCW 90.56.005, 88.46.160, 90.56.060, 90.56.200, and 90.56.210; and creating new sections.

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

NEW SECTION. Sec. 1. (1) The legislature recognizes the importance of prevention in obtaining the goal of zero oil spills to waters of the state. The legislature also recognizes that the regulation of oil and fuel transfers on or near waters of the state vary depending on many factors including the type of facility or equipment that is used, the type of products being transferred, where the transfer takes place, and the type of vessels involved in the transfer. The legislature therefore finds that the department of ecology shall initiate a review of the current statewide marine fueling practices for covered vessels and ships as those terms are defined in RCW 88.46.010.

(2) The department of ecology shall work with stakeholders to develop a report describing:

(a) The types of fueling practices being employed by covered vessels and ships;

(b) The current spill prevention planning requirements that are applicable under state and federal law for covered vessels and ships; and

(c) The current spill response requirements under state and federal law for covered vessels and ships.

(3) The department of ecology shall report recommendations for regulatory improvements for covered vessel and ship fueling. These recommendations must include any new authorities that the department of ecology believes are necessary to establish a protective regulatory system for the fueling of covered vessels and ships. The department of ecology shall consider any applicable federal requirements and the state's desire to not duplicate federal vessel fueling laws. The department of ecology shall also provide recommendations for funding to implement recommendations.

(4) The department of ecology shall deliver the report with its recommendations and findings to the appropriate committees of the legislature by December 15, 2004.

Sec. 2. RCW 90.56.005 and 1991 c 200 s 101 are each amended to read as follows:

(1) The legislature declares that the increasing reliance on water borne transportation as a source of supply for oil and hazardous substances poses special concern for the state of Washington. Each year billions of gallons of crude oil and refined petroleum products are transported by vessel on the navigable waters of the state. These shipments are expected to increase in the coming years. Vessels transporting oil into Washington travel on some of the most unique and special marine environments in the United States. These marine environments are a source of natural beauty, recreation, and economic livelihood for many residents of this state. As a result, the state has an obligation to ~~((assure))~~ ensure the citizens of the state that the waters of the state will be protected from oil spills.

(2) The legislature finds that prevention is the best method to protect the unique and special marine environments in this state. The technology for containing and cleaning up a spill of oil or hazardous substances is in the early stages of development. Preventing spills is more protective of the environment and more cost-effective when all the costs associated with responding to a spill are considered. Therefore, the legislature finds that the primary objective of the state is to adopt a zero spills strategy to prevent any oil or hazardous substances from entering waters of the state.

(3) The legislature also finds that:

(a) Recent accidents in Washington, Alaska, southern California, Texas, and other parts of the nation have shown that the transportation, transfer, and storage of oil have caused significant damage to the marine environment;

(b) Even with the best efforts, it is nearly impossible to remove all oil that is spilled into the water;

(c) Washington's navigable waters are treasured environmental and economic resources that the state cannot afford to place at undue risk from an oil spill; and

(d) The state has a fundamental responsibility, as the trustee of the state's natural resources and the protector of public health and the environment to prevent the spill of oil.

(4) In order to establish a comprehensive prevention and response program to protect Washington's waters and natural resources from spills of oil, it is the purpose of this chapter:

(a) To establish state agency expertise in marine safety and to centralize state activities in spill prevention and response activities;

(b) To prevent spills of oil and to promote programs that reduce the risk of both catastrophic and small chronic spills;

(c) To ensure that responsible parties are liable, and have the resources and ability, to respond to spills and provide compensation for all costs and damages;

(d) To provide for state spill response and wildlife rescue planning and implementation;

(e) To support and complement the federal oil pollution act of 1990 and other federal law, especially those provisions relating to the national contingency plan for cleanup of oil spills and discharges, including provisions relating to the responsibilities of state agencies designated as natural resource trustees. The legislature intends this chapter to be interpreted and implemented in a manner consistent with federal law;

(f) To provide broad powers of regulation to the department of ecology relating to spill prevention and response;

(g) To provide for an independent oversight board to review the adequacy of spill prevention and response activities in this state; and

(h) To provide an adequate funding source for state response and prevention programs.

Sec. 3. RCW 88.46.160 and 2000 c 69 s 12 are each amended to read as follows:

Any person or facility conducting ship refueling and bunkering operations, or the lightering of petroleum products, and any person or facility transferring oil between an onshore or offshore facility and a tank vessel shall have containment and recovery equipment readily available for deployment in the event of the discharge of oil into the waters of the state and shall deploy the containment and recovery equipment in accordance with standards adopted by the department. All persons conducting refueling, bunkering, or lightering operations, or oil transfer operations shall be trained in the use and deployment of oil spill containment and recovery equipment. The department shall adopt rules as necessary to carry out the provisions of this section by June 30, 2006. The rules shall include standards for the circumstances under which containment equipment should be deployed including standards requiring deployment of containment equipment prior to the transfer of oil when determined to be safe and effective by the department. The department may require a person or facility to employ alternative measures including but not limited to automatic shutoff devices and alarms, extra personnel to monitor the transfer, or containment equipment that is deployed quickly and effectively. The standards adopted by rule must be suitable to the specific environmental and operational conditions and characteristics of the facilities that are subject to the standards and the department must consult with the United States coast guard with the objective of developing state standards that are compatible with federal

requirements applicable to the activities covered by this section. An onshore or offshore facility shall include the procedures used to contain and recover discharges in the facility's contingency plan. It is the responsibility of the person providing bunkering, refueling, or lightering services to provide any containment or recovery equipment required under this section. This section does not apply to a person operating a ship for personal pleasure or for recreational purposes.

Sec. 4. RCW 90.56.060 and 2000 c 69 s 16 are each amended to read as follows:

(1) The department shall prepare and annually update a statewide master oil and hazardous substance spill prevention and contingency plan. In preparing the plan, the department shall consult with an advisory committee representing diverse interests concerned with oil and hazardous substance spills, including the United States coast guard, the federal environmental protection agency, state agencies, local governments, port districts, private facilities, environmental organizations, oil companies, shipping companies, containment and cleanup contractors, tow companies, and hazardous substance manufacturers.

(2) The state master plan prepared under this section shall at a minimum:

(a) Take into consideration the elements of oil spill prevention and contingency plans approved or submitted for approval pursuant to this chapter and chapter 88.46 RCW and oil and hazardous substance spill contingency plans prepared pursuant to other state or federal law or prepared by federal agencies and regional entities;

(b) State the respective responsibilities as established by relevant statutes and rules of each of the following in the prevention of and the assessment, containment, and cleanup of a worst case spill of oil or hazardous substances into the environment of the state: (i) State agencies; (ii) local governments; (iii) appropriate federal agencies; (iv) facility operators; (v) property owners whose land or other property may be affected by the oil or hazardous substance spill; and (vi) other parties identified by the department as having an interest in or the resources to assist in the containment and cleanup of an oil or hazardous substance spill;

(c) State the respective responsibilities of the parties identified in (b) of this subsection in an emergency response;

(d) Identify actions necessary to reduce the likelihood of spills of oil and hazardous substances;

(e) Identify and obtain mapping of environmentally sensitive areas at particular risk to oil and hazardous substance spills; ~~((and))~~

(f) Establish an incident command system for responding to oil and hazardous substances spills; and

(g) Establish a process for immediately notifying affected tribes of any oil spill.

(3) In preparing and updating the state master plan, the department shall:

(a) Consult with federal, provincial, municipal, and community officials, other state agencies, the state of Oregon, and with representatives of affected regional organizations;

(h) Submit the draft plan to the public for review and comment;

(c) Submit to the appropriate standing committees of the legislature for review, not later than November 1st of each year, the plan and any annual revision of the plan; and

(d) Require or schedule unannounced oil spill drills as required by RCW 90.56.260 to test the sufficiency of oil spill contingency plans approved under RCW 90.56.210.

Sec. 5. RCW 90.56.200 and 2000 c 69 s 19 are each amended to read as follows:

(1) The owner or operator for each onshore and offshore facility and any state agency conducting ship refueling or bunkering of more than one million gallons of oil on the waters of the state during any calendar year shall prepare and submit to the department an oil spill prevention plan in conformance with the requirements of this chapter. The plans shall be submitted to the department in the time and manner directed by the department. The spill prevention plan may be consolidated with a spill contingency plan submitted pursuant to RCW 90.56.210. The department may accept plans prepared to comply with other state or federal law as spill prevention plans to the extent those plans comply with the requirements of this chapter. The department, by rule, shall establish standards for spill prevention plans.

(2) The spill prevention plan for an onshore or offshore facility and state agencies identified under subsection (1) of this section shall:

(a) Establish compliance with the federal oil pollution act of 1990, if applicable, and financial responsibility requirements under federal and state law;

(b) Certify that supervisory and other key personnel in charge of transfer, storage, and handling of oil have received certification pursuant to RCW 90.56.220;

(c) Certify that the facility has an operations manual required by RCW 90.56.230;

(d) Certify the implementation of alcohol and drug use awareness programs;

(e) Describe the facility's maintenance and inspection program and contain a current maintenance and inspection record of the storage and transfer facilities and related equipment;

(f) Describe the facility's alcohol and drug treatment programs;

(g) Describe spill prevention technology that has been installed, including overflow alarms, automatic overflow cut-off switches, secondary containment facilities, and storm water retention, treatment, and discharge systems;

(h) Describe any discharges of oil to the land or the water of more than twenty-five barrels in the prior five years and the measures taken to prevent a reoccurrence;

(i) Describe the procedures followed by the facility to contain and recover any oil that spills during the transfer of oil to or from the facility;

(j) Provide for the incorporation into the facility during the period covered by the plan of those measures that will provide the best achievable protection for the public health and the environment; and

(k) Include any other information reasonably necessary to carry out the purposes of this chapter required by rules adopted by the department.

(3) The department shall only approve a prevention plan if it provides the best achievable protection from damages caused by the discharge of oil into the

waters of the state and if it determines that the plan meets the requirements of this section and rules adopted by the department.

(4) Upon approval of a prevention plan, the department shall provide to the person submitting the plan a statement indicating that the plan has been approved, the facilities covered by the plan, and other information the department determines should be included.

(5) The approval of a prevention plan shall be valid for five years. An owner or operator of a facility shall notify the department in writing immediately of any significant change of which it is aware affecting its prevention plan, including changes in any factor set forth in this section or in rules adopted by the department. The department may require the owner or operator to update a prevention plan as a result of these changes.

(6) The department by rule shall require prevention plans to be reviewed, updated, if necessary, and resubmitted to the department at least once every five years.

(7) Approval of a prevention plan by the department does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under this chapter or other state law.

(8) This section does not authorize the department to modify the terms of a collective bargaining agreement.

Sec. 6. RCW 90.56.210 and 2000 c 69 s 20 are each amended to read as follows:

(1) Each onshore and offshore facility and any state agency conducting ship refueling or bunkering of more than one million gallons of oil on the waters of the state during any calendar year shall have a contingency plan for the containment and cleanup of oil spills from the facility into the waters of the state and for the protection of fisheries and wildlife, shellfish beds, natural resources, and public and private property from such spills. The department shall by rule adopt and periodically revise standards for the preparation of contingency plans. The department shall require contingency plans, at a minimum, to meet the following standards:

(a) Include full details of the method of response to spills of various sizes from any facility which is covered by the plan;

(b) Be designed to be capable in terms of personnel, materials, and equipment, of promptly and properly, to the maximum extent practicable, as defined by the department removing oil and minimizing any damage to the environment resulting from a worst case spill;

(c) Provide a clear, precise, and detailed description of how the plan relates to and is integrated into relevant contingency plans which have been prepared by cooperatives, ports, regional entities, the state, and the federal government;

(d) Provide procedures for early detection of oil spills and timely notification of such spills to appropriate federal, state, and local authorities under applicable state and federal law;

(e) State the number, training preparedness, and fitness of all dedicated, prepositioned personnel assigned to direct and implement the plan;

(f) Incorporate periodic training and drill programs to evaluate whether personnel and equipment provided under the plan are in a state of operational readiness at all times;

(g) Describe important features of the surrounding environment, including fish and wildlife habitat, shellfish beds, environmentally and archaeologically sensitive areas, and public facilities. The departments of ecology, fish and wildlife, and natural resources, and the office of archaeology and historic preservation, upon request, shall provide information that they have available to assist in preparing this description. The description of archaeologically sensitive areas shall not be required to be included in a contingency plan until it is reviewed and updated pursuant to subsection (9) of this section;

(h) State the means of protecting and mitigating effects on the environment, including fish, shellfish, marine mammals, and other wildlife, and ensure that implementation of the plan does not pose unacceptable risks to the public or the environment;

(i) Provide arrangements for the repositioning of oil spill containment and cleanup equipment and trained personnel at strategic locations from which they can be deployed to the spill site to promptly and properly remove the spilled oil;

(j) Provide arrangements for enlisting the use of qualified and trained cleanup personnel to implement the plan;

(k) Provide for disposal of recovered spilled oil in accordance with local, state, and federal laws;

(l) Until a spill prevention plan has been submitted pursuant to RCW 90.56.200, state the measures that have been taken to reduce the likelihood that a spill will occur, including but not limited to, design and operation of a facility, training of personnel, number of personnel, and backup systems designed to prevent a spill;

(m) State the amount and type of equipment available to respond to a spill, where the equipment is located, and the extent to which other contingency plans rely on the same equipment; and

(n) If the department has adopted rules permitting the use of dispersants, the circumstances, if any, and the manner for the application of the dispersants in conformance with the department's rules.

(2)(a) The following shall submit contingency plans to the department within six months after the department adopts rules establishing standards for contingency plans under subsection (1) of this section:

(i) Onshore facilities capable of storing one million gallons or more of oil; and

(ii) Offshore facilities.

(b) Contingency plans for all other onshore and offshore facilities shall be submitted to the department within eighteen months after the department has adopted rules under subsection (1) of this section. The department may adopt a schedule for submission of plans within the eighteen-month period.

(3)(a) The owner or operator of a facility shall submit the contingency plan for the facility.

(b) A person who has contracted with a facility to provide containment and cleanup services and who meets the standards established pursuant to RCW 90.56.240, may submit the plan for any facility for which the person is contractually obligated to provide services. Subject to conditions imposed by the department, the person may submit a single plan for more than one facility.

(4) A contingency plan prepared for an agency of the federal government or another state that satisfies the requirements of this section and rules adopted by

the department may be accepted by the department as a contingency plan under this section. The department shall (~~assure~~) ensure that to the greatest extent possible, requirements for contingency plans under this section are consistent with the requirements for contingency plans under federal law.

(5) In reviewing the contingency plans required by this section, the department shall consider at least the following factors:

(a) The adequacy of containment and cleanup equipment, personnel, communications equipment, notification procedures and call down lists, response time, and logistical arrangements for coordination and implementation of response efforts to remove oil spills promptly and properly and to protect the environment;

(b) The nature and amount of vessel traffic within the area covered by the plan;

(c) The volume and type of oil being transported within the area covered by the plan;

(d) The existence of navigational hazards within the area covered by the plan;

(e) The history and circumstances surrounding prior spills of oil within the area covered by the plan;

(f) The sensitivity of fisheries, shellfish beds, and wildlife and other natural resources within the area covered by the plan;

(g) Relevant information on previous spills contained in on-scene coordinator reports prepared by the department; and

(h) The extent to which reasonable, cost-effective measures to prevent a likelihood that a spill will occur have been incorporated into the plan.

(6) The department shall approve a contingency plan only if it determines that the plan meets the requirements of this section and that, if implemented, the plan is capable, in terms of personnel, materials, and equipment, of removing oil promptly and properly and minimizing any damage to the environment.

(7) The approval of the contingency plan shall be valid for five years. Upon approval of a contingency plan, the department shall provide to the person submitting the plan a statement indicating that the plan has been approved, the facilities or vessels covered by the plan, and other information the department determines should be included.

(8) An owner or operator of a facility shall notify the department in writing immediately of any significant change of which it is aware affecting its contingency plan, including changes in any factor set forth in this section or in rules adopted by the department. The department may require the owner or operator to update a contingency plan as a result of these changes.

(9) The department by rule shall require contingency plans to be reviewed, updated, if necessary, and resubmitted to the department at least once every five years.

(10) Approval of a contingency plan by the department does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under this chapter or other state law.

NEW SECTION. Sec. 7. If specific funding for the purposes of sections 5 and 6 of this act, referencing sections 5 and 6 of this act by bill or chapter or section number, is not provided by June 30, 2004, in the omnibus transportation appropriations act, sections 5 and 6 of this act are null and void.

Passed by the Senate March 8, 2004.
 Passed by the House March 3, 2004.
 Approved by the Governor March 31, 2004.
 Filed in Office of Secretary of State March 31, 2004.

CHAPTER 227

[Substitute Senate Bill 6329]

BALLAST WATER WORK GROUP

AN ACT Relating to extending the date for ballast water discharge implementation; amending RCW 77.120.005 and 77.120.030; amending 2002 c 282 s 1 (uncodified); and providing an expiration date.

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

Sec. 1. RCW 77.120.005 and 2000 c 108 s 1 are each amended to read as follows:

The legislature finds that some nonindigenous species have the potential to cause economic and environmental damage to the state and that current efforts to stop the introduction of nonindigenous species from shipping vessels do not adequately reduce the risk of new introductions into Washington waters.

The legislature recognizes the international ramifications and the rapidly changing dimensions of this issue, the lack of currently available treatment technologies, and the difficulty that any one state has in either legally or practically managing this issue. Recognizing the possible limits of state jurisdiction over international issues, the state declares its support for the international maritime organization and United States coast guard efforts, and the state intends to complement, to the extent its powers allow it, the United States coast guard's ballast water management program.

Sec. 2. 2002 c 282 s 1 (uncodified) is amended to read as follows:

(1) The director of the department of fish and wildlife must establish the ballast water work group.

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

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

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

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

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

(e) Two representatives from the petroleum transportation industry;

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

((and))

(g) Two representatives from the environmental community;

(h) One representative of the shellfish industry;

(i) One representative of the tribes;

(j) One representative of maritime labor; and

(k) One representative from the department of fish and wildlife.

(3) The ballast water work group must study, and provide a report to the legislature by December 15, ((2003)) 2006, the following issues:

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

availability of feasible and proven ballast water treatment technologies that could be cost-effectively installed on vessels that typically call on Washington ports;

(b) The services needed by the industry and the state to protect the marine environment, including penalties and enforcement; ~~((and))~~

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

(d) Consistency with federal and international standards, and identification of gaps between those standards, and the need for additional measures, if any, to meet the goals of this chapter;

(e) Describe how the costs of treatment required as of July 1, 2007, will be substantially equivalent among ports where treatment is required;

(f) Describe how the states of Washington and Oregon are coordinating their efforts for ballast water management in the Columbia river system; and

(g) Describe how the states of Washington, Oregon, and California and the province of British Columbia are coordinating their efforts for ballast water management on the west coast.

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

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

(6)(a) The ballast water work group expires June 30, ~~((2004))~~ 2007.

(b) This section expires June 30, ~~((2004))~~ 2007.

Sec. 3. RCW 77.120.030 and 2002 c 282 s 2 are each amended to read as follows:

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

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

(2) After July 1, ~~((2004))~~ 2007, discharge of ballast water into waters of the state is authorized only if there has been an open sea exchange or if the vessel has treated its ballast water to meet standards set by the department consistent with applicable state and federal laws. When weather or extraordinary circumstances make access to treatment unsafe to the vessel or crew, the master of a vessel may delay compliance with any treatment required under this subsection until it is safe to complete the treatment.

(3) Masters, owners, operators, or persons-in-charge shall submit to the department an interim ballast water management report by July 1, 2006, in the form and manner prescribed by the department. The report shall describe actions needed to implement the ballast water requirements in subsection (2) of this section, including treatment methods applicable to the class of the vessel. Reports may include a statement that there are no treatment methods applicable to the vessel for which the report is being submitted.

(4) The ballast water work group created in section 1, chapter 282, Laws of 2002 shall develop recommendations for the interim ballast water management report. The recommendations must include, but are not limited to:

(a) Actions that the vessel owner or operator will take to implement the ballast water requirements in subsection (2) of this section, including treatment methods applicable to the class of the vessel;

(b) Necessary plan elements when there are not treatment methods applicable to the vessel for which the report is being submitted, or which would meet the requirements of this chapter; and

(c) The method, form, and content of reporting to be used for such reports.

(5) For treatment technologies requiring shipyard modification that cannot reasonably be performed prior to July 1, 2007, the department shall provide the vessel owner or operator with an extension to the first scheduled drydock or shipyard period following July 1, 2007.

(6) The department shall make every effort to align ballast water standards with adopted international and federal standards while ensuring that the goals of this chapter are met.

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

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

Passed by the Senate March 8, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 228

[Engrossed Second Substitute Senate Bill 5957]

WATER QUALITY DATA

AN ACT Relating to the collection and use of water quality data; adding new sections to chapter 90.48 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. (1) The legislature finds that:

(a) The proper collection and review of credible water quality data is necessary to ensure compliance with the requirements of the federal clean water act (33 U.S.C. Sec. 1251 et seq.);

(b) The state needs to assemble and evaluate all existing and readily available water quality-related data and information from sources other than the state water quality agency, such as federal agencies, tribes, universities, and volunteer monitoring groups, if the data meets the state's requirements for data quality; and

(c) Developing and implementing water quality protection measures based on credible water quality data ensures that the financial resources of state and local governments and regulated entities are prioritized to address our state's most important water quality issues.

(2) The legislature intends to ensure that credible water quality data is used as the basis for the assessment of the status of a water body relative to the surface water quality standards.

(3) It is the intent of the legislature that a water body in which pollutant loadings from naturally occurring conditions are the sole cause of a violation of applicable surface water quality standards not be listed as impaired.

NEW SECTION. Sec. 2. The definitions in this section apply to sections 3 and 4 of this act unless the context clearly requires otherwise.

(1) "Credible data" means data meeting the requirements of section 4 of this act.

(2) "Department" means the Washington state department of ecology.

(3) "Impaired water" means a water body or segment for which credible data exists that: (a) Satisfies the requirements of sections 3 and 4 of this act; and (b) demonstrates the water body should be identified pursuant to 33 U.S.C. Sec. 1313(d).

(4) "Naturally occurring condition" means any condition affecting water quality that is not caused by human influence.

(5) "Section 303(d)" has the same meaning as in the federal clean water act (33 U.S.C. Sec. 1313(d)).

(6) "Total maximum daily load" has the same meaning as in the federal clean water act (33 U.S.C. Sec. 1313(d)).

NEW SECTION. Sec. 3. (1) The department shall use credible information and literature for developing and reviewing a surface water quality standard or technical model used to establish a total maximum daily load for any surface water of the state.

(2) The department shall use credible data for the following actions after the effective date of this section:

(a) Determining whether any water of the state is to be placed on or removed from any section 303(d) list;

(b) Establishing a total maximum daily load for any surface water of the state; or

(c) Determining whether any surface water of the state is supporting its designated use or other classification.

(3) The department shall respond to questions regarding the data, literature, and other information it uses under this section. The department shall reply to requests within five business days acknowledging that the department has

received the request and provide a reasonable estimate of the time the department will require to respond to the request.

(4) The department, the United States environmental protection agency, and the Indian tribes in Washington state have developed a voluntary agreement relating to the cooperative management of the clean water act section 303(d) program. The department shall consider water quality data that has been collected by Indian tribes under a quality assurance project plan that has been approved by the United States environmental protection agency if that data meets the objectives of the plan.

NEW SECTION. Sec. 4. (1) In collecting and analyzing water quality data for any purpose identified in section 3(2) of this act, data is considered credible data if:

(a) Appropriate quality assurance and quality control procedures were followed and documented in collecting and analyzing water quality samples;

(b) The samples or measurements are representative of water quality conditions at the time the data was collected;

(c) The data consists of an adequate number of samples based on the objectives of the sampling, the nature of the water in question, and the parameters being analyzed; and

(d) Sampling and laboratory analysis conform to methods and protocols generally acceptable in the scientific community as appropriate for use in assessing the condition of the water.

(2) Data interpretation, statistical, and modeling methods shall be those methods generally acceptable in the scientific community as appropriate for use in assessing the condition of the water.

(3) The department shall develop policy:

(a) Explaining how it uses scientific research and literature for developing and reviewing any water quality standard or technical model used to establish a total maximum daily load for any water of the state;

(b) Describing the specific criteria that determine data credibility; and

(c) Recommending the appropriate training and experience for collection of credible data.

NEW SECTION. Sec. 5. Any person who knowingly falsifies data is guilty of a gross misdemeanor.

NEW SECTION. Sec. 6. Sections 1 through 5 of this act are each added to chapter 90.48 RCW.

NEW SECTION. Sec. 7. By December 31, 2005, the department of ecology shall report to the appropriate committees of the senate and the house of representatives concerning the status of activities undertaken to comply with the provisions of this act, and shall report by December 31, 2006 any rule-making or policy development required to implement this act, including changes in listings resulting from the use of credible data.

Passed by the Senate March 9, 2004.

Passed by the House March 5, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 229

[Engrossed Substitute House Bill 2474]
TRANSPORTATION FUNDING

AN ACT Relating to transportation funding and appropriations; amending RCW 70.94.996; amending 2003 1st sp.s. c 26 ss 506 and 508 (uncodified); amending 2003 c 360 ss 102, 202, 203, 204, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 304, 305, 308, 310, 401, 402, 403, 404, 405, 406, and 407 (uncodified); adding new sections to 2003 c 360 (uncodified); and declaring an emergency.

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

GENERAL GOVERNMENT AGENCIES—OPERATING

Sec. 101. 2003 c 360 s 102 (uncodified) is amended to read as follows:

FOR THE MARINE EMPLOYEES COMMISSION

Puget Sound Ferry Operations Account—State

Appropriation ((~~\$352,000~~))
\$365,000

NEW SECTION. Sec. 102. A new section is added to 2003 c 360 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—INITIATIVE MEASURE NO. 776 COSTS

Motor Vehicle Account—State Appropriation \$1,200,000
Motor Vehicle Account—Local Appropriation \$2,100,000
TOTAL APPROPRIATION \$3,300,000

The appropriations in this section are subject to the following conditions and limitations: \$1,200,000 of the motor vehicle account—state appropriation and \$2,100,000 of the motor vehicle account—local appropriation are provided solely for the administrative costs associated with issuing refunds resulting from *Pierce County et al. v. State of Washington et al.* (Supreme Court Cause No. 73607-3), upholding the Initiative Measure No. 776. Funds may not be expended unless the King county superior court issues a final order requiring the repayment of fees collected.

TRANSPORTATION AGENCIES—OPERATING

Sec. 201. 2003 c 360 s 202 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account—State Appropriation \$769,000
Motor Vehicle Account—State Appropriation ((~~\$1,927,000~~))
\$1,934,000
County Arterial Preservation Account—State Appropriation \$719,000
TOTAL APPROPRIATION ((~~\$3,415,000~~))
\$3,422,000

Sec. 202. 2003 c 360 s 203 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD

Urban Arterial Trust Account—State Appropriation ((~~\$1,611,000~~))
\$1,613,000

Transportation Improvement Account—State

Appropriation	(\$1,620,000)
	<u>\$1,622,000</u>
TOTAL APPROPRIATION	(\$3,231,000)
	<u>\$3,235,000</u>

Sec. 203. 2003 c 360 s 204 (uncodified) is amended to read as follows:

FOR THE BOARD OF PILOTAGE COMMISSIONERS

Pilotage Account—State Appropriation	(\$272,000)
	<u>\$344,000</u>

Sec. 204. 2003 c 360 s 206 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION COMMISSION

Motor Vehicle Account—State Appropriation	(\$807,000)
	<u>\$813,000</u>

Sec. 205. 2003 c 360 s 207 (uncodified) is amended to read as follows:

FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD

Motor Vehicle Account—State Appropriation	(\$616,000)
	<u>\$625,000</u>

Sec. 206. 2003 c 360 s 208 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL—FIELD OPERATIONS BUREAU

State Patrol Highway Account—State Appropriation	(\$171,269,000)
	<u>\$174,438,000</u>
State Patrol Highway Account—Federal Appropriation	(\$6,167,000)
	<u>\$6,957,000</u>
State Patrol Highway Account—Private/Local Appropriation	\$175,000
TOTAL APPROPRIATION	(\$177,611,000)
	<u>\$181,570,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Washington state patrol officers engaged in off-duty uniformed employment providing traffic control services to the department of transportation or other state agencies are authorized to use state patrol vehicles for the purposes of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol shall be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol. The patrol shall report to the house of representatives and senate transportation committees by December 31, 2004, on the use of agency vehicles by officers engaging in the off-duty employment specified in this subsection. The report shall include an analysis that compares cost reimbursement and cost-impacts, including increased vehicle mileage, maintenance costs, and indirect impacts, associated with the private use of patrol vehicles.

(2) \$2,075,000 of the state patrol highway account—state appropriation in this section is provided solely for the addition of thirteen troopers to those permanently assigned to vessel and terminal security. The Washington state patrol shall continue to provide the enhanced services levels established after September 11, 2001.

(3) In addition to the user fees, the patrol shall transfer into the state patrol nonappropriated airplane revolving account created under section 1501 of this act, no more than the amount of appropriated state patrol highway account and general fund funding necessary to cover the costs for the patrol's use of the aircraft. The state patrol highway account and general fund—state funds shall be transferred proportionately in accordance with a cost allocation that differentiates between highway traffic enforcement services and general policing purposes.

(4) The patrol shall not account for or record locally provided DUI cost reimbursement payments as expenditure credits to the state patrol highway account. The patrol shall report the amount of expected locally provided DUI cost reimbursements to the transportation committees of the senate and house of representatives by December 31 of each year.

(5) \$2,138,000 of the state patrol highway account—state appropriation is provided solely for additional security personnel and equipment necessary to comply with the ferry security plan submitted by the Washington state ferry system to the United States coast guard.

(6) \$264,600 of the state patrol highway account—state appropriation in this subsection is provided solely for two full-time detectives to work solely to investigate incidents of identity fraud, drivers' license fraud, and identity theft. The detectives, as part of their duty to police the public highways, shall work cooperatively with the department of licensing's driver's special investigation unit.

Sec. 207. 2003 c 360 s 209 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL—SUPPORT SERVICES BUREAU

State Patrol Highway Account—State Appropriation	(\$69,993,000)
	\$69,799,000
State Patrol Highway Account—Private/Local Appropriation.	\$1,290,000
TOTAL APPROPRIATION	(\$71,283,000)
	\$71,089,000

The appropriations in this section are subject to the following conditions and limitations:

~~((1))~~ Under the direction of the legislative auditor, the patrol shall update the pursuit vehicle life-cycle cost model developed in the 1998 Washington state patrol performance audit (JLARC Report 99-4). The patrol shall utilize the updated model as a basis for determining maintenance and other cost impacts resulting from the increase to pursuit vehicle mileage above 110 thousand miles in the 2003-05 biennium. The patrol shall submit a report, that includes identified cost impacts, to the transportation committees of the senate and house of representatives by December 31, 2003.

~~((2) The Washington state patrol shall assign two full-time detectives to work solely to investigate incidents of identity fraud, drivers' license fraud, and identity theft. The detectives shall work cooperatively with the department of licensing's driver's special investigation unit.)~~

Sec. 208. 2003 c 360 s 210 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—MANAGEMENT AND SUPPORT SERVICES

Marine Fuel Tax Refund Account—State Appropriation	(\$7,000)
	<u>\$3,000</u>
Motorcycle Safety Education Account—State Appropriation	(\$85,000)
	<u>\$97,000</u>
Wildlife Account—State Appropriation	(\$77,000)
	<u>\$84,000</u>
<u>Highway Safety Account—Local Appropriation</u>	<u>\$6,000</u>
Highway Safety Account—State Appropriation	(\$8,286,000)
	<u>\$8,316,000</u>
Motor Vehicle Account—State Appropriation	(\$4,623,000)
	<u>\$4,403,000</u>
DOL Services Account—State Appropriation	(\$107,000)
	<u>\$144,000</u>
TOTAL APPROPRIATION	(\$13,185,000)
	<u>\$13,053,000</u>

Sec. 209. 2003 c 360 s 211 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—INFORMATION SERVICES

Marine Fuel Tax Refund Account—State Appropriation	\$2,000
Motorcycle Safety Education Account—State Appropriation	(\$133,000)
	<u>\$144,000</u>
Wildlife Account—State Appropriation	(\$58,000)
	<u>\$55,000</u>
Highway Safety Account—State Appropriation	(\$10,489,000)
	<u>\$11,656,000</u>
Highway Safety Account—Federal Appropriation	\$6,000
<u>Highway Safety Account—Local Appropriation</u>	<u>\$60,000</u>
Motor Vehicle Account—State Appropriation	(\$6,569,000)
	<u>\$6,285,000</u>
DOL Services Account—State Appropriation	(\$670,000)
	<u>\$1,220,000</u>
TOTAL APPROPRIATION	(\$17,927,000)
	<u>\$19,428,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall submit a report to the transportation committees of the legislature detailing the progress made in transitioning off of the Unisys system by December 1, 2003, and each December 1 thereafter.

(2) \$151,000 of the highway safety account—state appropriation is provided solely for the implementation of Third Substitute Senate Bill No. 5412. Within the amount provided, the department of licensing shall prepare to implement a "one-to-one" biometric matching system that compares the biometric identifier submitted to the individual applicant's record. The authority to expend funds provided under this subsection is subject to compliance with the provisions

under section 504 of this act. If Third Substitute Senate Bill No. 5412 is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

Sec. 210. 2003 c 360 s 212 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—VEHICLE SERVICES

Marine Fuel Tax Refund Account—State Appropriation	\$60,000
<u>License Plate Technology Account—State Appropriation</u>	<u>\$2,000,000</u>
Wildlife Account—State Appropriation	\$585,000
Motor Vehicle Account—Local Appropriation	\$1,372,000
Motor Vehicle Account—State Appropriation	(\$61,509,000)
	\$58,193,000
Motor Vehicle Account—Federal Appropriation	\$600,000
DOL Services Account—State Appropriation	(\$3,211,000)
	\$3,844,000
TOTAL APPROPRIATION	(\$67,337,000)
	\$66,654,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$144,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 5435 or Engrossed Substitute House Bill No. 1592.

(2) If Engrossed Senate Bill No. 6063 is not enacted by June 30, 2003, \$1,100,000 of the motor vehicle account—state appropriation shall lapse.

(3) \$81,000 of the DOL services account—state appropriation is provided solely for the implementation of Substitute House Bill No. 1036.

(4) \$58,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 6325. If Substitute Senate Bill No. 6325 is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(5) \$192,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Engrossed Senate Bill No. 6710. If Engrossed Senate Bill No. 6710 is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(6) \$25,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 6688. If Substitute Senate Bill No. 6688 is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(7) \$33,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Substitute House Bill No. 2910. If Substitute House Bill No. 2910 is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(8) \$25,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 6148. If Substitute Senate Bill No. 6148 is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(9) \$2,000,000 of the license plate technology account—state appropriation and \$400,000 of the motor vehicle account—state appropriation are provided solely for the implementation of a digital license plate printing system. Within the amounts provided, the department shall fund the implementation of a digital

license plate system including: The purchase or lease of digital license plate printing equipment by correctional industries; the remodeling of space to provide climate control, ventilation, and power requirements, for the equipment that will be housed at correctional industries; and the purchase of digital license plate inventory. The department shall expend all of the license plate technology account—state appropriation before expending any of the motor vehicle account—state appropriation. By December 1, 2004, the department and correctional industries shall submit a joint report to the transportation committees of the legislature detailing a digital license plate printing system implementation plan. By June 30, 2005, the department and correctional industries shall submit a joint report to the transportation committees of the legislature concerning the cost of the consumables used in the digital license plate printing process.

Sec. 211. 2003 c 360 s 213 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—DRIVER SERVICES

Motorcycle Safety Education Account—State Appropriation	\$2,576,000
Highway Safety Account—State Appropriation	(\$84,809,000)
	\$87,259,000
Highway Safety Account—Federal Appropriation	\$318,000
Highway Safety Account—Local Appropriation	\$67,000
TOTAL APPROPRIATION	(\$87,703,000)
	\$90,220,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$178,000 of the highway safety account—state appropriation is provided solely for two temporary collision processing FTEs to eliminate the backlog of collision reports. The department shall report, informally, to the house of representatives and senate transportation committees quarterly, beginning October 1, 2003, on the progress made in eliminating the backlog.

(2) \$369,000 of the highway safety account—state appropriation is provided solely to implement Engrossed Substitute Senate Bill No. 5428 or House Bill No. 1681. Within the amount provided in this subsection, the department is authorized to accept applications for driver's license and identicard renewals via the mail or internet. If Engrossed Substitute Senate Bill No. 5428 or House Bill No. 1681 is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(3) \$282,000 of the highway safety account—state appropriation is provided solely for the implementation of Third Substitute Senate Bill No. 5412. Within the amount provided, the department of licensing shall prepare to implement a "one-to-one" biometric matching system that compares the biometric identifier submitted to the individual applicant's record. The authority to expend funds provided under this subsection is subject to compliance with the provisions under section 504 of this act. If Third Substitute Senate Bill No. 5412 is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(4) \$354,000 of the highway safety account—state appropriation is provided solely for the implementation of Substitute House Bill No. 2532. If Substitute House Bill No. 2532 is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(5) \$538,000 of the highway safety account—state appropriation is provided solely for the implementation of Substitute House Bill No. 2660. If Substitute House Bill No. 2660 is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

Sec.212. 2003 c 360 s 214 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—INFORMATION TECHNOLOGY—PROGRAM C

Motor Vehicle Account—State Appropriation	(\$58,661,000)
	<u>\$56,236,000</u>
Motor Vehicle Account—Federal Appropriation	\$5,163,000
Puget Sound Ferry Operations Account—State Appropriation.	(\$6,583,000)
	<u>\$7,038,000</u>
Multimodal Transportation Account—State Appropriation	\$363,000
TOTAL APPROPRIATION	(\$70,770,000)
	<u>\$68,800,000</u>

The appropriations in this section are subject to the following conditions and limitations:

~~(1) ((\$715,000 of the motor vehicle account—state appropriation is provided solely to retain an external consultant to provide an assessment of the department's review of current major information technology systems and planning for system and application modernization. The legislative transportation committee shall approve the statement of work before the consultant is hired. The consultant shall also work with the department to prepare an application modernization strategy and preliminary project plan.~~

~~The department and the consultant shall work with the office of financial management and the department of information services to ensure that (a) the department's current and future system development is consistent with the overall direction of other key state systems; and (b) when possible, common statewide information systems are used or developed to encourage coordination and integration of information used by the department and other state agencies and to avoid duplication. The department shall provide a report on its proposed application modernization plan to the transportation committees of the legislature by June 30, 2004.)~~ \$850,000 of the motor vehicle account—state appropriation is provided for the continued maintenance and support of the transportation executive information system (TEIS). The TEIS shall be enhanced during the 2004 interim to shift towards a monitoring and reporting system capable of tracking and reporting on major project milestones and measurements. The department shall work with the legislature to identify and define meaningful milestones and measures to be used in monitoring the scope, schedule, and cost of projects.

~~(2)(a) ((\$2,963,000))~~ \$2,959,000 of the motor vehicle account—state appropriation and \$2,963,000 of the motor vehicle account—federal appropriation are provided solely for implementation of a new revenue collection system, including the integration of the regional fare coordination system (smart card), at the Washington state ferries. By December 1st of each year, an annual update must be provided to the legislative transportation committee concerning the status of implementing and completing this project.

(b) ~~(((\$400,000))~~ \$200,000 of the Puget Sound ferry operation account—state appropriation is provided solely for implementation of the smart card program. ~~(((\$200,000 of this amount must be held in allotment reserve until a smart card report is delivered to the legislative transportation committee indicating that an agreement on which technology will be used throughout the state of Washington for the smart card program has been reached among smart card participants.))~~

(3) The department shall contract with the department of information services to conduct a survey that identifies possible opportunities and benefits associated with siting and use of technology and wireless facilities located on state right of way authorized by RCW 47.60.140. The department shall submit a report regarding the survey to the appropriate legislative committees by December 1, 2004.

Sec. 213. 2003 c 360 s 215 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—FACILITY MAINTENANCE, OPERATIONS AND CONSTRUCTION—PROGRAM D—OPERATING

Motor Vehicle Account—State Appropriation~~(((\$31,048,000))~~
\$30,981,000

Sec. 214. 2003 c 360 s 216 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—AVIATION—PROGRAM F

Aeronautics Account—State Appropriation~~(((\$5,107,000))~~
\$5,607,000

Aeronautics Account—Federal Appropriation~~(((\$650,000))~~
\$2,150,000

Aircraft Search and Rescue Safety and Education
Account—State Appropriation~~(((\$282,000))~~
\$260,000

TOTAL APPROPRIATION~~(((\$6,039,000))~~
\$8,017,000

The appropriations in this section are subject to the following conditions and limitations: \$1,381,000 of the aeronautics account—state appropriation is provided solely for additional preservation grants to airports. ~~(((\$122,000 of the aircraft search and rescue safety and education account—state appropriation is provided for additional search and rescue and safety and education activities.))~~ If Senate Bill No. 6056 is not enacted by June 30, 2003, the amounts provided shall lapse.

Sec. 215. 2003 c 360 s 217 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PROGRAM DELIVERY MANAGEMENT AND SUPPORT—PROGRAM H

Motor Vehicle Account—State Appropriation~~(((\$49,010,000))~~
\$49,056,000

Motor Vehicle Account—Federal Appropriation \$400,000

TOTAL APPROPRIATION~~(((\$49,410,000))~~
\$49,456,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$14,310,000 of the motor vehicle account—state appropriation is provided solely for the staffing, activities, and overhead of the department's environmental affairs office. This funding is provided in lieu of funding provided in sections 305 and 306 of this act.

(2) \$3,100,000 of the motor vehicle account—state appropriation is provided solely for the staffing and activities of the transportation permit efficiency and accountability committee. The committee shall develop a model national environmental policy act (NEPA) tribal consultation process for federal transportation aid projects related to the preservation of cultural, historic, and environmental resources. The process shall ensure that Tribal participation in the NEPA consultation process is conducted pursuant to treaty rights, federal law, and state statutes, consistent with their expectations for protection of such resources.

(3) \$300,000 of the motor vehicle account—state appropriation is provided to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department solely for the purposes of providing contract services to the association of Washington cities and Washington state association of counties to implement section 2(3)(c), (5), and (6), chapter 8 (ESB 5279), Laws of 2003 for activities of the transportation permit efficiency and accountability committee.

**Sec. 216. 2003 c 360 s 218 (uncodified) is amended to read as follows:*

FOR THE DEPARTMENT OF TRANSPORTATION—ECONOMIC PARTNERSHIPS—PROGRAM K

*Motor Vehicle Account—State Appropriation(~~\$1,011,000~~)
\$1,411,000*

The appropriation in this section is subject to the following conditions and limitations: \$200,000 of the motor vehicle account—state appropriation is provided solely for a traffic study of the Mount Saint Helens tourist and recreational area. The study shall analyze existing and potential traffic patterns in the area. \$200,000 of the motor vehicle account—state appropriation is provided solely for an economic analysis study of the Mount Saint Helens tourist and recreational area. The study shall develop funding strategies sufficient to fund construction of a connection between state route number 504 and forest service road number 99. The economic study shall also include an analysis of potential partnership funding plans involving the use of tolls in order to determine the potential to pay for ongoing maintenance and operations requirements of visitor centers, roads, and other amenities provided to tourists. The purpose and results of the studies shall be made available to citizens, businesses, and community organizations in the affected area. The studies shall be completed and submitted to the transportation committees of the legislature by December 31, 2004.

**Sec. 216 was vetoed. See message at end of chapter.*

Sec. 217. 2003 c 360 s 219 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MAINTENANCE—PROGRAM M

Motor Vehicle Account—State Appropriation	(\$283,350,000))
	<u>\$283,991,000</u>
Motor Vehicle Account—Federal Appropriation	\$1,426,000
Motor Vehicle Account—Private/Local Appropriation	\$4,253,000
TOTAL APPROPRIATION	(\$289,029,000))
	<u>\$289,670,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) If portions of the appropriations in this section are required to fund maintenance work resulting from major disasters not covered by federal emergency funds such as fire, flooding, and major slides, supplemental appropriations must be requested to restore state funding for ongoing maintenance activities.

(2) The department shall request an unanticipated receipt for any federal moneys received for emergency snow and ice removal and shall place an equal amount of the motor vehicle account—state into unallotted status. This exchange shall not affect the amount of funding available for snow and ice removal.

(3) The department shall request an unanticipated receipt for any private or local funds received for reimbursements of third party damages that are in excess of the motor vehicle account—private/local appropriation.

(4) Funding is provided for maintenance on the state system to allow for a continuation of the level of service targets included in the 2001-03 biennium. In delivering the program, the department should concentrate on the following areas:

- (a) Meeting or exceeding the target for structural bridge repair on a statewide basis;
- (b) Eliminating the number of activities delivered in the "f" level of service at the region level;
- (c) Reducing the number of activities delivered in the "d" level of service by increasing the resources directed to those activities on a statewide and region basis; and
- (d) Evaluating, analyzing, and potentially redistributing resources within and among regions to provide greater consistency in delivering the program statewide and in achieving overall level of service targets.

Sec. 218. 2003 c 360 s 220 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—OPERATING

Motor Vehicle Account—State Appropriation	(\$38,869,000))
	<u>\$38,924,000</u>
Motor Vehicle Account—Private/Local Appropriation	\$125,000
TOTAL APPROPRIATION	(\$38,994,000))
	<u>\$39,049,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) A maximum of \$8,800,000 of the motor vehicle account—state appropriation may be expended for the incident response program, including the

service patrols. The department and the Washington state patrol shall continue to consult and coordinate with private sector partners, such as towing companies, media, auto, insurance and trucking associations, and the legislative transportation committees to ensure that limited state resources are used most effectively. No funds shall be used to purchase tow trucks.

(2) \$4,400,000 of the motor vehicle account—state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis.

(3) At a frequency determined by the department, the interstate-5 variable message signs shall display a message advising slower traffic to keep right.

(4) The appropriation authority under this section includes spending authority to administer the motorist information sign panel program. The department shall establish the annual fees charged for these services so that all costs to administer this program are recovered; in no event, however, shall the department charge more than:

(a) \$1,000 per business per location on freeways and expressways with average daily trips greater than 80,000;

(b) \$750 per business per location on freeways and expressways with average daily trips less than 80,000; and

(c) \$400 per business per location on conventional highways.

Sec. 219. 2003 c 360 s 221 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION— TRANSPORTATION MANAGEMENT AND SUPPORT—PROGRAM S	
Motor Vehicle Account—State Appropriation	(\$24,852,000)
	<u>\$24,579,000</u>
Motor Vehicle Account—Federal Appropriation	\$636,000
Puget Sound Ferry Operations Account—State Appropriation	\$1,093,000
Multimodal Transportation Account—State Appropriation	\$973,000
TOTAL APPROPRIATION	(\$27,554,000)
	<u>\$27,281,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$627,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 5248. If Substitute Senate Bill No. 5248 is not enacted by June 30, 2003, the amount provided in this subsection shall lapse. The agency may transfer between programs funds provided in this subsection.

(2) The department shall transfer at no cost to the Washington state patrol the title to the Walla Walla colocation facility.

Sec. 220. 2003 c 360 s 222 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION— TRANSPORTATION PLANNING, DATA, AND RESEARCH— PROGRAM T	
Motor Vehicle Account—State Appropriation	(\$30,064,000)
	<u>\$29,494,000</u>

Motor Vehicle Account—Federal Appropriation	\$14,814,000
Multimodal Transportation Account—State Appropriation.	(\$1,021,000)
	<u>\$1,521,000</u>
Multimodal Transportation Account—Federal Appropriation	\$2,000,000
TOTAL APPROPRIATION	(\$47,899,000)
	<u>\$47,829,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$3,800,000 of the motor vehicle account—state appropriation is provided solely for a study of regional congestion relief solutions for Puget Sound (including state route 169), Spokane, and Vancouver. The study must include proposals to alleviate congestion consistent with population and land use expectations under the growth management act, and must include measurement of all modes of transportation.

(2) \$2,000,000 of the motor vehicle account—state appropriation is provided solely for additional assistance to support regional transportation planning organizations and long-range transportation planning efforts. As a condition of receiving this support, a regional transportation planning organization containing any county with a population in excess of one million shall provide voting membership on its executive board to any incorporated principal city of a metropolitan statistical area within the region, as designated by the United States census bureau.

(3) \$3,000,000 of the motor vehicle account—state appropriation is provided solely for the costs of the regional transportation investment district (RTID) election and department of transportation project oversight. These funds are provided as a loan to the RTID and shall be repaid to the state motor vehicle account within one year following the certification of the election results related to the RTID.

(4) \$650,000 of the motor vehicle account—state appropriation is provided to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department to support the processing and analysis of the backlog of city and county collision reports.

(5) The department shall contribute to the report required in section 208(1) of this act in the form of an analysis of the cost impacts incurred by the department as the result of the policy implemented in section 208(1) of this act. The analysis shall contrast overtime costs charged by the patrol prior to July 1, 2003, with contract costs for similar services after July 1, 2003.

(6) \$60,000 of the distribution under RCW 46.68.110(2) and 46.68.120(3) is provided solely to the department for the Washington strategic freight transportation analysis.

(7) \$500,000 of the multimodal transportation account—state appropriation is provided solely for contracting with the department of natural resources to develop data systems for state submerged lands that can be shared with other governmental agencies and that can support the state vision for ecoregional planning. The data to be shared shall include, but not limited to, tabular and geospatial data describing public land ownership, distributions of native plants, marine and aquatic species and their habitats, physical attributes, aquatic

ecosystems, and specially designated conservation or environmentally sensitive areas.

Sec. 221. 2003 c 360 s 223 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—CHARGES FROM OTHER AGENCIES—PROGRAM U

Motor Vehicle Account—State Appropriation((~~\$61,082,000~~))
\$54,738,000

The appropriation in this section is subject to the following conditions and limitations:

(1) (~~(\$50,799,000)~~) \$43,799,000 of the motor vehicle fund—state appropriation is provided solely for the liabilities attributable to the department of transportation. The office of financial management must provide a detailed accounting of the revenues and expenditures of the self-insurance fund to the transportation committees of the legislature on December 31st and June 30th of each year.

(2) Payments in this section represent charges from other state agencies to the department of transportation.

(a) FOR PAYMENT OF OFFICE OF FINANCIAL MANAGEMENT DIVISION OF RISK MANAGEMENT FEES((~~\$989,000~~))
\$848,000

(b) FOR PAYMENT OF COSTS OF THE OFFICE OF THE STATE AUDITOR((~~\$823,000~~))
\$819,000

(c) FOR PAYMENT OF COSTS OF DEPARTMENT OF GENERAL ADMINISTRATION FACILITIES AND SERVICES AND CONSOLIDATED MAIL SERVICES \$3,850,000

(d) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF PERSONNEL((~~\$2,252,000~~))
\$2,786,000

(e) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION((~~\$50,799,000~~))
\$43,799,000

(f) FOR PAYMENT OF THE DEPARTMENT OF GENERAL ADMINISTRATION CAPITAL PROJECTS SURCHARGE \$1,846,000

(g) FOR ARCHIVES AND RECORDS MANAGEMENT((~~\$523,000~~))
\$538,000

(h) FOR PAYMENT OF COSTS OF THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES \$252,000

Sec. 222. 2003 c 360 s 224 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PUBLIC TRANSPORTATION—PROGRAM V

Multimodal Transportation Account—State Appropriation((~~\$46,457,000~~))
\$47,057,000

Multimodal Transportation Account—Federal Appropriation \$2,574,000

Multimodal Transportation Account—Private/Local Appropriation \$155,000

TOTAL APPROPRIATION((~~\$49,186,000~~))
\$49,786,000

The appropriations in this section are subject to the following conditions and limitations:

(1) (~~(\$4,000,000 of the multimodal transportation account—state appropriation is provided solely for a grant program for nonprofit providers of transportation for persons with special transportation needs. \$14,000,000 of the multimodal transportation account—state appropriation is provided solely for a grant program for transit agencies to transport persons with special transportation needs. Moneys shall be to provide additional service only and may not be used to supplant current funding. Grants shall only be used by nonprofit providers and transit agencies for capital and operating costs directly associated with adding additional service. Grants for nonprofit providers shall be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided. Grants for transit agencies shall be prorated based on the amount expended for demand response service and route deviated service in calendar year 2001 as reported in the "Summary of Public Transportation - 2001" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions.))~~
\$18,000,000 of the multimodal transportation account—state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation.

(a) \$4,000,000 of the amount provided in this subsection is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers shall be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) \$14,000,000 of the amount provided in this subsection is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies shall be prorated based on the amount expended for demand response service and route deviated service in calendar year 2001 as reported in the "Summary of Public Transportation - 2001" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions.

(2) \$1,500,000 of the multimodal transportation account—state appropriation is provided solely for grants to implement section 9 of Engrossed Substitute House Bill No. 2228.

(3) Funds are provided for the rural mobility grant program as follows:

(a) \$6,000,000 of the multimodal transportation account—state appropriation is provided solely for grants for those transit systems serving small cities and rural areas as identified in the Summary of Public Transportation - 2001 published by the department of transportation. Noncompetitive grants must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs.

(b) \$4,000,000 of the multimodal transportation account—state appropriation is provided solely to providers of rural mobility service in areas not served or underserved by transit agencies through a competitive grant process.

(4) \$4,000,000 of the multimodal transportation account—state appropriation is provided solely for a vanpool grant program for: (a) Public transit agencies to add vanpools; and (b) incentives for employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; no operating costs for public transit agencies are eligible for funding under this grant program. ~~((Only grants that add vanpools are eligible, no))~~ No additional employees may be hired for the vanpool grant program, and supplanting of transit funds currently funding vanpools is not allowed. Additional criteria for selecting grants will include leveraging funds other than state funds. The commute trip reduction task force shall determine the cost effectiveness of the grants, including vanpool system coordination, regarding the use of the funds.

(5) \$100,000 of the multimodal transportation account—state appropriation is provided solely for the commute trip reduction program for Benton county.

(6) \$3,000,000 of the multimodal transportation account—state appropriation is provided to the city of Seattle for the Seattle streetcar project on South Lake Union.

(7) \$500,000 of the multimodal transportation account—state appropriation is provided solely to King county as a state match to obtain federal funding for a car sharing program.

Sec. 223. 2003 c 360 s 225 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X

Puget Sound Ferry Operations Account—State

Appropriation ~~(\$309,580,000)~~
\$312,490,000

Multimodal Transportation Account—State

Appropriation \$5,120,000

TOTAL APPROPRIATION ~~(\$314,700,000)~~
\$317,610,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation is based on the budgeted expenditure of ~~(\$34,701,000)~~ \$35,348,000 for vessel operating fuel in the 2003-2005 biennium. If the actual cost of fuel is less than this budgeted amount, the excess amount may not be expended. If the actual cost exceeds this amount, the department shall request a supplemental appropriation.

(2) The appropriation provides for the compensation of ferry employees. The expenditures for compensation paid to ferry employees during the 2003-2005 biennium may not exceed ~~(\$207,757,000)~~ \$208,935,700, plus a dollar amount, as prescribed by the office of financial management, that is equal to any insurance benefit increase granted general government employees in excess of \$495.30 a month annualized per eligible marine employee multiplied by the number of eligible marine employees for fiscal year 2004 and \$567.67 a month

annualized per eligible marine employee multiplied by the number of eligible marine employees for fiscal year 2005, a dollar amount as prescribed by the office of financial management for costs associated with pension amortization charges, and a dollar amount prescribed by the office of financial management for salary increases during the 2003-2005 biennium. For the purposes of this section, the expenditures for compensation paid to ferry employees shall be limited to salaries and wages and employee benefits as defined in the office of financial management's policies, regulations, and procedures named under objects of expenditure "A" and "B" (7.2.6.2).

The prescribed salary increase or decrease dollar amount that shall be allocated from the governor's compensation appropriations is in addition to the appropriation contained in this section and may be used to increase or decrease compensation costs, effective July 1, 2003, and thereafter, as established in the 2003-2005 general fund operating budget.

(3) \$4,234,000 of the multimodal transportation account—state appropriation and \$800,000 of the Puget Sound ferry operations account—state appropriation are provided solely for operating costs associated with the Vashon to Seattle passenger-only ferry. The Washington state ferries will develop a plan to increase passenger-only farebox recovery to at least forty percent by July 1, 2003, with an additional goal of eighty percent, through increased fares, lower operation costs, and other cost-saving measures as appropriate. In order to implement the plan, ferry system management is authorized to negotiate changes in work hours (requirements for split shift work), but only with respect to operating passenger-only ferry service, to be included in a collective bargaining agreement in effect during the 2003-05 biennium that differs from provisions regarding work hours in the prior collective bargaining agreement. The department must report to the transportation committees of the legislature by December 1, 2003.

(4) \$984,000 of the Puget Sound ferry operations account—state appropriation is provided solely for ferry security operations necessary to comply with the ferry security plan submitted by the Washington state ferry system to the United States coast guard. The department shall track security costs and expenditures. Ferry security operations costs shall not be included as part of the operational costs that are used to calculate farebox recovery.

(5) \$866,000 of the multimodal transportation account—state appropriation and \$200,000 of the Puget Sound ferry operations account—state appropriation are provided solely for operating costs associated with the Bremerton to Seattle passenger-only ferry service for thirteen weeks.

~~((5))~~ (6) The department shall study the potential for private or public partners, including but not limited to King county, to provide passenger-only ferry service from Vashon to Seattle. The department shall report to the legislative transportation committees by December 31, 2003.

~~((6))~~ (7) The Washington state ferries shall continue to provide service to Sidney, British Columbia.

~~((7))~~ (8) When augmenting the existing ferry fleet, the department of transportation ferry capital program shall explore cost-effective options to include the leasing of ferries from private-sector organizations.

~~((8))~~ (9) The Washington state ferries shall work with the department of general administration, office of state procurement to improve the existing fuel

procurement process and solicit, identify, and evaluate, purchasing alternatives to reduce the overall cost of fuel and mitigate the impact of market fluctuations and pressure on both short- and long-term fuel costs. Consideration shall include, but not be limited to, long-term fuel contracts, partnering with other public entities, and possibilities for fuel storage in evaluating strategies and options. The department shall report back to the transportation committees of the legislature by December 1, 2003, on the options, strategies, and recommendations for managing fuel purchases and costs.

~~((9))~~ (10) The department must provide a separate accounting of passenger-only ferry service costs and auto ferry service costs, and must provide periodic reporting to the legislature on the financial status of both passenger-only and auto ferry service in Washington state.

~~((10))~~ (11) The Washington state ferries must work with the department's information technology division to implement a new revenue collection system, including the integration of the regional fare coordination system (smart card). Each December, annual updates are to be provided to the transportation committees of the legislature concerning the status of implementing and completing this project, with updates concluding the first December after full project implementation.

~~((11))~~ (12) The Washington state ferries shall evaluate the benefits and costs of selling the depreciation rights to ferries purchased by the state in the future through sale and lease-back agreements, as permitted under RCW 47.60.010. The department is authorized to issue a request for proposal to solicit proposals from potential buyers. The department must report to the transportation committees of the legislature by December 1, 2004, on the options, strategies, and recommendations for sale/lease-back agreements on existing ferry boats as well as future ferry boat purchases.

*Sec. 224. 2003 c 360 s 226 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—OPERATING

Multimodal Transportation Account—State

Appropriation.~~((35,075,000))~~
\$34,118,000

The appropriation in this section is subject to the following conditions and limitations:

(1) ~~((30,831,000))~~ \$29,961,000 of the multimodal transportation account—state appropriation is provided solely for the Amtrak service contract and Talgo maintenance contract associated with providing and maintaining the state-supported passenger rail service.

(2) No Amtrak Cascade runs may be eliminated.

(3) The department is directed to explore scheduling changes that will reduce the delay in Seattle when traveling from Portland to Vancouver B.C.

(4) The department is directed to explore opportunities with British Columbia (B.C.) concerning the possibility of leasing an existing Talgo trainset to B.C. during the day for a commuter run when the Talgo is not in use during the Bellingham layover.

(5) The department shall undertake an origin and destination study to provide data that may be used for a new passenger train cost sharing

agreement with the state of Oregon. The study shall be delivered to the transportation committees of the legislature before July 1, 2004.

*Sec. 224 was partially vetoed. See message at end of chapter.

*Sec. 225. 2003 c 360 s 227 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—OPERATING

Motor Vehicle Account—State Appropriation	(\$7,057,000)
	<u>\$7,067,000</u>
Motor Vehicle Account—Federal Appropriation	\$2,569,000
TOTAL APPROPRIATION	(\$9,626,000)
	<u>\$9,636,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Up to \$75,000 of the total appropriation is provided in accordance with RCW 46.68.110(2) and 46.68.120(3) to fund the state's share of the 2004 Washington marine cargo forecast study. Public port districts, acting through their association, must provide funding to cover the remaining cost of the forecast.

(2) \$300,000 of the motor vehicle account—state appropriation is provided in accordance with RCW 46.68.110(2) and 46.68.120(3) solely to fund a study of the threats posed by flooding to the state and other infrastructure near the Interstate 5 crossing of the Skagit River. This funding is contingent on the receipt of federal matching funds.

(3) In addition to other gubernatorial appointees, the state historic preservation officer shall be appointed to any steering committee that makes the final selection of projects funded from the surface transportation program enhancement funds or a similar program anticipated to be authorized in the extension or reauthorization of the transportation equity act for the 21st century (TEA-21).

*Sec. 225 was partially vetoed. See message at end of chapter.

TRANSPORTATION AGENCIES—CAPITAL

Sec. 301. 2003 c 360 s 304 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PROGRAM D (DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)—CAPITAL

Motor Vehicle Account—State Appropriation	(\$17,296,000)
	<u>\$17,186,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1) The entire motor vehicle account—state appropriation is provided solely to implement the activities and projects included in the Legislative 2003 Transportation Project List - Current Law report as transmitted to LEAP on April 27, 2003.

(2) The department shall develop a standard design for all maintenance facilities to be funded under this section. Prior to developing design standards,

the department must solicit input from all personnel classifications typically employed at maintenance facilities. By September 1, 2003, the department shall submit a report to the legislative transportation committees describing the stakeholder involvement process undertaken and the adopted design standards for maintenance facilities.

*Sec. 302. 2003 c 360 s 305 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—IMPROVEMENTS—PROGRAM I

Transportation 2003 Account (Nickel Account)—State	
Appropriation.....	(((\$565,300,000)) \$558,465,000
((Transportation 2003 Account (Nickel Account)—Federal	
Appropriation.....	..... \$950,000
Transportation 2003 Account (Nickel Account)—Local	
Appropriation.....	..... \$3,434,000))
Motor Vehicle Account—State Appropriation	(((\$157,374,000)) \$159,135,000
Motor Vehicle Account—Federal Appropriation	(((\$192,940,000)) \$201,578,000
Motor Vehicle Account—Local Appropriation	(((\$13,258,000)) \$30,158,000
Special Category C Account—State Appropriation	\$50,279,000
Tacoma Narrows Toll Bridge Account Appropriation	(((\$13,300,000)) \$603,992,000
TOTAL APPROPRIATION	(((\$1,596,835,000)) \$1,603,607,000

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(((\$157,374,000 of the motor vehicle account—state appropriation, \$192,940,000 of the motor vehicle account—federal appropriation, \$13,258,000 of the motor vehicle account—local appropriation, and \$50,279,000 of the special category C account—state appropriation are provided solely to implement the activities and projects included in the Legislative 2003 Transportation Project List—Current Law report as transmitted to LEAP on April 27, 2003.)) The entire transportation 2003 account (nickel account) appropriation is provided solely for the projects and activities as listed by project, biennium, and amount in the Legislative 2003 Transportation Project List - New Law List under the heading "Nickel Funds" as transmitted to LEAP on March 11, 2004. However, limited transfers of allocations between projects may occur for those amounts listed for the 2003-05 biennium subject to conditions and limitations in section 503 of this act.~~

(a) Within the amount provided in this subsection, \$11,000,000 of the transportation 2003 account (nickel account)—state appropriation is provided solely for the environmental impact statement on the SR 520 Evergreen floating bridge.

(b) Within the amount provided in this subsection, \$250,000 of the transportation 2003 account (Nickel Account)—state appropriation and an equal amount from the city of Seattle are provided solely for an analysis of the impacts

that an expansion of the SR 520 Evergreen floating bridge will have on the streets of North Capitol Hill, Roanoke Park, and Montlake. An advisory committee with two members each from Portage Bay/Roanoke Park Community Council, Montlake Community Council, and the North Capitol Hill community organization along with the secretary of transportation is established. The seven-member committee shall hire and oversee the contract with a transportation consulting organization to: (a) Perform an analysis of such impacts; and (b) design a traffic and circulation plan that mitigates the adverse consequences of such impacts. If the city of Seattle does not agree to provide \$250,000 by January 1, 2004, the amount provided in this subsection (1)(b) shall lapse.

(2) \$126,533,253 of the motor vehicle account—state appropriation and motor vehicle account—federal appropriation is provided solely to implement the projects as indicated in the Legislative 2003 Transportation Project List - New Law List under the heading "Pre-Existing Revenues" as transmitted to LEAP on March 11, 2004.

(3) The motor vehicle account—state appropriation includes (((\$78,000,000)) \$93,615,000 in proceeds from the sale of bonds authorized by RCW 47.10.843. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation. The motor vehicle account—state appropriation includes (((\$18,038,000)) \$17,380,000 in unexpended proceeds from bond sales authorized in RCW 47.10.843 for mobility and economic initiative improvement projects.

((((3))) (4) \$192,180,381 of the motor vehicle account—state appropriation and motor vehicle account—federal appropriation and \$50,279,000 of the special category C account—state appropriation are provided solely to implement the projects included in the Legislative 2003 Transportation Project List - Current Law List under the heading "Improvement Projects" as transmitted to LEAP on March 11, 2004. The department shall manage all projects on the list within the overall expenditure authority provided in this subsection.

(a) Within the amounts provided in this subsection, \$1,700,000 of the motor vehicle account—state appropriation is provided solely for the I-5 Salmon creek noise wall project.

(b) Within amounts provided in this subsection, \$100,000 of the motor vehicle account—state appropriation is provided solely for the department to hire a consultant to complete a cost-benefit analysis comparing the efficiency of having high-occupancy vehicle (HOV) lanes in the right lane versus the left lane. The study shall compare the costs, and the traffic efficiencies of building HOV lanes in the right and left lanes. The study shall be completed and submitted to the transportation committees of the legislature by December 1, 2004.

(c) Within amounts provided in this subsection, \$500,000 of the motor vehicle account—state appropriation is provided solely for a study to provide the legislature with information regarding the feasibility of pursuing a Washington commerce corridor. The department shall retain outside experts to conduct the study. The study must include the following conditions:

(i) The Washington commerce corridor must be a north-south corridor starting in the vicinity of Lewis county and extending northerly to the vicinity of

the Canadian border. The corridor must be situated east of state route number 405 and west of the Cascades. The corridor may include any of the following features:

- (A) Ability to carry long-haul freight;
- (B) Ability to provide for passenger auto travel;
- (C) Freight rail;
- (D) Passenger rail;
- (E) Public utilities; and
- (F) Other ancillary facilities as may be desired to maximize use of the

corridor;

(ii) The Washington commerce corridor must be developed, financed, designed, constructed, and operated by private sector consortiums;

(iii) The Washington commerce corridor must be subject to a joint permitting process involving federal, state, and local agencies with jurisdiction; and

(iv) The legislative transportation committee shall form a working group to work with the department and the outside consultant on the study.

(d) Within the amounts provided in this subsection, \$2,480,000 of the motor vehicle account—state appropriation is provided solely for either the SR 28 east end of the George Sellar bridge - phase I project or the US 2/97 Peshastin East Interchange project.

(e) Within the amounts provided in this subsection, \$400,000 of the motor vehicle account—state appropriation and \$150,000 of the motor vehicle account—local appropriation are provided solely for a route development plan to identify the future transportation improvements that should be pursued for state route 169. The study shall include the following elements:

- (i) Documentation of existing conditions;
- (ii) Determination of present and future operating conditions;
- (iii) Development and testing of various transportation conceptual improvement strategies;
- (iv) Preliminary environmental analysis;
- (v) Public involvement; and
- (vi) Cost estimates for the identified conceptual improvements.

(f) Within the amounts provided in this subsection, \$1,200,000 from the motor vehicle account—state appropriation is provided solely for the SR507-SR510 Yelm Bypass project.

(g) Within the amount provided in this subsection, \$650,000 from the motor vehicle account—state appropriation is provided solely for the SR164 Corridor Analysis project.

(5) A maximum of \$28,643,607 from the motor vehicle account—state appropriation and motor vehicle account—federal appropriation is provided for direct project support costs, including, but not limited to, direct project support, property management, scenic byways, and other administration.

(6) A maximum of \$9,238,726 from the motor vehicle account—state appropriation and motor vehicle account—federal appropriation is provided for environmental retrofit improvement projects not included in the list in subsection (4) of this section.

(7) A maximum of \$2,266,813 from the motor vehicle account—state appropriation and motor vehicle account—federal appropriation is provided for

improvement projects programmed through the transportation commission's priority programming process.

~~(8)~~ The Tacoma Narrows toll bridge account—state appropriation includes \$567,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.843. The Tacoma Narrows toll bridge account—state appropriation includes ~~(((\$46,300,000))~~ \$36,992,000 in unexpended proceeds from the January 2003 bond sale authorized in RCW 47.10.843 for the Tacoma Narrows bridge project.

~~((4))~~ (9) The special category C account—state appropriation includes \$44,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.812. The transportation commission may authorize the use of current revenues available in the special category C account in lieu of bond proceeds for any part of the state appropriation.

~~((5) The entire transportation 2003 account (nickel account) appropriation is provided solely for the projects and activities as indicated in the Legislative 2003 Transportation Project List—New Law report transmitted to LEAP on April 27, 2003.~~

~~(6))~~ (10) The ~~((motor vehicle account))~~ transportation 2003 account (nickel account)—state appropriation includes ~~(((\$280,000,000))~~ \$275,000,000 in proceeds from the sale of bonds authorized by Senate Bill No. 6062. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

~~((7) \$11,000,000 of the motor vehicle account—state appropriation is provided solely for the environmental impact statement on the SR 520 Evergreen floating bridge.~~

~~(8) \$250,000 of the transportation 2003 account (Nickel Account)—state appropriation and an equal amount from the city of Seattle are provided solely for an analysis of the impacts that an expansion of the SR 520 Evergreen floating bridge will have on the streets of North Capitol Hill, Roanoke Park, and Montlake. An advisory committee with two members each from Portage Bay/Roanoke Park Community Council, Montlake Community Council, and the North Capitol Hill community organization along with the secretary of transportation is established. The seven-member committee shall hire and oversee the contract with a transportation consulting organization to: (a) Perform an analysis of such impacts; and (b) design a traffic and circulation plan that mitigates the adverse consequences of such impacts. If the city of Seattle does not agree to provide \$250,000 by January 1, 2004, the amount provided in this subsection shall lapse.~~

~~(9)(a) \$500,000 of the motor vehicle account—state appropriation is provided solely for a study to provide the legislature with information regarding the feasibility of pursuing a Washington commerce corridor. The department shall retain outside experts to conduct the study. The study must include the following conditions:~~

~~(i) The Washington commerce corridor must be a north-south corridor starting in the vicinity of Lewis county and extending northerly to the vicinity of the Canadian border. The corridor must be situated east of state route number 405 and west of the Cascades. The corridor may include any of the following features:~~

~~(A) Ability to carry long-haul freight;~~

~~(B) Ability to provide for passenger auto travel;~~

~~(C) Freight rail;~~

~~(D) Passenger rail;~~

~~(E) Public utilities; and~~

~~(F) Other ancillary facilities as may be desired to maximize use of the corridor;~~

~~(ii) The Washington commerce corridor must be developed, financed, designed, constructed, and operated by private sector consortiums; and~~

~~(iii) The Washington commerce corridor must be subject to a joint permitting process involving federal, state, and local agencies with jurisdiction.~~

~~(b) The legislative transportation committee shall form a working group to work with the department and the outside consultant on the study.~~

~~(10) \$8,000,000 of the motor vehicle account state appropriation is provided for the SR 522, University of Washington Bothell campus access project. This amount will cover approximately one half of the construction costs.))~~

(11) The transportation permit efficiency and accountability committee (TPEAC) shall select from the project list under ~~((this))~~ subsection (1) of this section ten projects that have not yet secured state permits. TPEAC shall select projects from both urban and rural areas representing a wide variety of locations within the state. These projects shall be designated "Department of Transportation Permit Drafting Pilot Projects" and shall become a part of the work plan of TPEAC required under section 2(1)(b), chapter 8 (ESB 5279), Laws of 2003.

(12) Of the amounts appropriated in this section and section 306 of this act, no more than \$124,000 is provided for increased project costs due to the enactment of Substitute Senate Bill No. 5457.

~~((14))~~ (13) To manage some projects more efficiently, federal funds may be transferred from program Z to program I ~~((to replace those federal))~~ and replaced with state funds in a dollar-for-dollar match. However, funds may not be transferred between federal programs, except in order to accept federally earmarked funds and maintain eligibility for federal discretionary programs. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department shall not transfer funds as authorized under this subsection without approval of the transportation commission and the director of financial management. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2004.

(14) The department shall, on a quarterly basis beginning July 1, 2004, provide to the legislature reports providing the status on each project in the project lists submitted pursuant to this act to LEAP on March 11, 2004, and on any additional projects for which the department has expended funds during the 2003-05 fiscal biennium. The department shall work with the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS).

(15) Funding provided by this act for the Alaskan Way Viaduct project shall not be spent for preliminary engineering, design, right of way acquisition, or construction on the project if it could have the effect of reducing roadway capacity on that facility.

(16) In conducting its environmental impact statement responsibilities on the Alaskan Way Viaduct project, the department of transportation must provide briefings and consult with the legislators in the affected project area, and the chairs of the transportation committees of the legislature, on the design alternatives for that facility.

*Sec. 302 was partially vetoed. See message at end of chapter.

Sec. 303. 2003 1st sp.s. c 26 s 506 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—
PRESERVATION—PROGRAM P**

Transportation 2003 Account (Nickel Account)	\$2,000,000
Motor Vehicle Account—State Appropriation	(\$178,909,000))
	<u>\$205,349,000</u>
Motor Vehicle Account—Federal Appropriation	(\$457,467,000))
	<u>\$499,067,000</u>
Motor Vehicle Account—Local Appropriation	\$12,666,000
Multimodal Account—State Appropriation	\$1,690,000
(Multimodal Account—Federal Appropriation)	(\$4,247,000))
<u>Puyallup Tribal Settlement Account—State</u>	
<u>Appropriation</u>	<u>\$11,000,000</u>
TOTAL APPROPRIATION	(\$656,979,000))
	<u>\$731,772,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$178,909,000 of the motor vehicle account—state appropriation, \$457,467,000 of the motor vehicle account—federal appropriation, \$12,666,000 of the motor vehicle account—local appropriation, \$1,690,000 of the multimodal transportation account—state appropriation, and \$4,247,000 of the multimodal transportation account—federal appropriation are provided solely to implement the activities and projects included in the Legislative 2003 Transportation Project List—Current Law report transmitted to LEAP on April 27, 2003-))~~ The entire 2003 transportation account (nickel account) appropriation is provided solely for the projects and activities as listed by project, biennium, and amount in the Legislative 2003 Transportation Project List - New Law List under the heading "Nickel Funds" as transmitted to LEAP on March 11, 2004. However, limited transfers of allocations between projects may occur for those amounts listed for the 2003-05 biennium subject to conditions and limitations in section 503 of this act.

(2) \$35,974,657 of the motor vehicle account—state appropriation and motor vehicle account—federal appropriation and \$11,000,000 of the Puyallup tribal settlement account—state appropriation are provided solely to implement the projects included in the Legislative 2003 Transportation Project List - Current Law List under the heading "Bridge Improvements" as transmitted to

LEAP on March 11, 2004. The department shall manage all projects on the list within the overall expenditure authority provided in this subsection.

(a) Within the amounts provided in this subsection, \$1,000,000 of the motor vehicle account—state appropriation is provided solely for the Purdy creek bridge project. The 2005-07 biennium appropriations for this project are expected to be \$5,074,000.

(b) Within the amounts provided in this subsection, \$11,000,000 of the Puyallup tribal settlement account—state appropriation is provided solely for mitigation costs associated with the Murray Morgan/11st Street Bridge demolition. The department may negotiate with the city of Tacoma for the purpose of transferring ownership of the Murray Morgan/11th Street Bridge to the city. The department is allowed to use the Puyallup tribal settlement account appropriation, as well as any funds appropriated in the current biennium and planned in future biennia for the demolition and mitigation for the demolition of the bridge to rehabilitate or replace the bridge, if agreed to by the city. In no event will the department's participation exceed \$26,500,000 and no funds may be expended unless the city of Tacoma agrees to take ownership of the bridge in its entirety and provide that the payment of these funds extinguishes any real or implied agreements regarding future expenditures on the bridge.

(3) A maximum of \$211,585,010 from the motor vehicle account—state appropriation and motor vehicle account—federal appropriation and \$1,690,000 of the multimodal account—state appropriation are provided for roadway preservation projects.

(4) A maximum of \$55,336,893 from the motor vehicle account—state appropriation and motor vehicle account—federal appropriation is provided for bridge repair projects.

(5) A maximum of \$51,562,422 from the motor vehicle account—state appropriation and motor vehicle account—federal appropriation is provided for other facilities preservation projects.

(6) A maximum of \$38,968,540 from the motor vehicle account—state appropriation and motor vehicle account—federal appropriation is provided for other preservation projects programmed through the transportation commission's priority programming process.

(7) A maximum of \$56,737,803 from the motor vehicle account—state appropriation and motor vehicle account—federal appropriation is provided for direct project support costs, including, but not limited to, direct project support, property management, scenic byways, and other administration.

(8) \$81,147,069 of the motor vehicle account—state appropriation and \$173,103,529 of the motor vehicle account—federal appropriation are provided solely for the Hood Canal bridge project.

(9) The motor vehicle account—state appropriation includes \$2,850,000 in proceeds from the sale of bonds authorized in RCW 47.10.761 and 47.10.762 for emergency purposes.

((3)) (10) The motor vehicle account—state appropriation includes \$77,700,000 in proceeds from the sale of bonds authorized by RCW 47.10.843. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

~~((4)) The entire transportation 2003 account (nickel account) appropriation is provided solely for the projects and activities as indicated in the Legislative 2003 Transportation Project List—New Law report transmitted to LEAP on April 27, 2003.~~

~~(5))~~ (11) The department of transportation shall continue to implement the lowest life cycle cost planning approach to pavement management throughout the state to encourage the most effective and efficient use of pavement preservation funds. Emphasis should be placed on increasing the number of roads addressed on time and reducing the number of roads past due.

~~((6))~~ (12) Of the amounts appropriated in this section and section 305 of this act, no more than \$124,000 is provided for increased project costs due to the enactment of Substitute Senate Bill No. 5457.

~~((7))~~ (13) To manage some projects more efficiently, federal funds may be transferred from program Z to program P ~~((to replace those federal))~~ and replaced with state funds in a dollar-for-dollar match. However, funds may not be transferred between federal programs, except in order to accept federally earmarked funds and maintain eligibility for federal discretionary programs. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department shall not transfer funds as authorized under this subsection without approval of the transportation commission and the director of financial management. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2004.

(14) The department shall, on a quarterly basis beginning July 1, 2004, provide to the legislature reports providing the status on each project in the project lists submitted pursuant to this act to LEAP on March 11, 2004, and on any additional projects for which the department has expended funds during the 2003-05 fiscal biennium. The department shall work with the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS).

Sec. 304. 2003 c 360 s 308 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—WASHINGTON STATE FERRIES CONSTRUCTION—PROGRAM W

Puget Sound Capital Construction Account—

State Appropriation	((129,066,000))
	<u>\$108,330,000</u>

Puget Sound Capital Construction Account—

Federal Appropriation	((34,400,000))
	<u>\$69,881,000</u>

Puget Sound Capital Construction Account—

<u>Local Appropriation.....</u>	<u>\$249,000</u>
---------------------------------	------------------

Multimodal Transportation Account—State

Appropriation.....	\$13,381,000
--------------------	--------------

Transportation 2003 Account (nickel account)

Appropriation.....	\$5,749,000
--------------------	-------------

TOTAL APPROPRIATION	(\$182,596,000)
	\$197,590,000

The appropriations in this section are provided for improving the Washington state ferry system, including, but not limited to, vessel construction, major and minor vessel ~~((improvements))~~ preservation, and terminal preservation, construction, and improvements. The appropriations in this section are subject to the following conditions and limitations:

(1) The multimodal transportation account—state appropriation includes \$11,772,000 in proceeds from the sale of bonds authorized by Senate Bill No. 6062. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

~~(2) ((\$129,066,000 of the Puget Sound capital construction account—state appropriation and \$34,400,000 of the Puget Sound capital construction account—federal appropriation are provided solely for capital projects as listed in the Legislative 2003 Transportation Project List—Current Law as transmitted to the LEAP on April 27, 2003.~~

~~(3) \$17,521,000 of the transportation 2003 account (nickel account)—state appropriation is provided solely for capital projects as listed in the Legislative 2003 Transportation Project List—New Law as transmitted to the LEAP on April 27, 2003.~~

(4)) \$108,330,000 of the Puget Sound capital construction account—state appropriation, \$69,881,000 of the Puget Sound capital construction account—federal appropriation, \$249,000 of the Puget Sound capital construction account—local appropriation, and \$1,609,000 of the multimodal transportation account—state appropriation are provided for ferry construction projects. The department shall report against the Legislative 2003 Transportation Project List - Current Law transmitted to LEAP on March 11, 2004.

(a) Within the amounts provided in this subsection, a maximum of \$58,205,000 of the Puget Sound capital construction account—state appropriation, \$21,362,000 of the Puget Sound capital construction account—federal appropriation, \$409,000 of the multimodal transportation account—state appropriation, and \$249,000 of the Puget Sound capital construction account—local appropriation are provided for terminal projects.

(b) Within the amounts provided in this subsection, a maximum of \$44,875,000 of the Puget Sound capital construction account—state appropriation, \$48,432,000 of the Puget Sound capital construction account—federal appropriation, and \$1,200,000 of the multimodal transportation account—state appropriation are provided for vessel projects.

(c) Within the amounts provided in this subsection, \$5,250,000 of the Puget Sound capital construction account—state appropriation and \$87,000 of the Puget Sound capital construction account—federal appropriation are provided for emergency repair projects. Additionally, unused funds under (a) and (b) of this subsection, may be transferred to emergency repair projects.

(3) \$11,772,000 of the multimodal transportation account—state appropriation and \$5,749,000 of the transportation 2003 (nickel) account—state appropriation are provided solely for the projects and activities as listed by project, biennium, and amount in the Legislative 2003 Transportation Project

List - New Law transmitted to LEAP on March 11, 2004. However, limited transfers of allocations between projects may occur for those amounts listed for the 2003-05 biennium subject to conditions and limitations in section 503 of this act.

(4) \$1,000,000 of the Puget Sound capital construction account—state appropriation is provided solely for the department of transportation's Washington state ferry program to conduct a terminal analysis, including technical analysis, to determine the viability of the existing Keystone harbor. The department of transportation staff, including the chief of staff, secretary, or the secretary's designee, and the citizen advisory group formed under this subsection, shall meet at least three times during the duration of the analysis. The first meeting shall occur before the analysis is created.

(a) The technical analysis shall at a minimum include the following issues: (i) The costs and benefits associated with preserving and maintaining the terminal, including enlarging the harbor and dredging; (ii) ridership projections associated with preserving and maintaining the current terminal; (iii) maintaining and retrofitting existing vessels so they can serve the terminal; (iv) coordinating the impact of vehicles using the ferry run with highway capacity; (v) how many, if any, new vessels should be constructed; and (vi) the impact on the environment. The department shall report back to the legislative transportation committee by December 1, 2004. The report must include alternatives to relocating the Keystone Terminal.

(b) By June 1, 2004, the transportation commission shall select a citizen advisory group to be composed of the following: One Washington state ferry pilot, two members of the traveling public that use the Keystone to Port Townsend route on a regular basis, and one tug pilot.

(5) The Puget Sound capital construction account—state appropriation includes (((\$45,000,000)) \$29,385,000 in proceeds from the sale of bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead time materials acquisition for the Washington state ferries. The transportation commission may authorize the use of current revenues available to the motor vehicle account in lieu of bond proceeds for any part of the state appropriation.

((5)) (6) The Washington state ferries shall consult with the United States Coast Guard regarding operational and design standards required to meet Safety of Life at Sea requirements, in an effort to determine the most efficient and cost-effective vessel design that meets these requirements.

(7) The department shall, on a quarterly basis beginning July 1, 2004, provide to the legislature reports providing the status on each project in the project lists submitted pursuant to this act to LEAP on March 11, 2004, and on any additional projects for which the department has expended funds during the 2003-05 fiscal biennium. The department shall work with the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS).

*Sec. 305. 2003 1st sp.s. c 26 s 508 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—CAPITAL

Essential Rail Assistance Account—State Appropriation	\$770,000
Multimodal Transportation Account—State Appropriation.	(\$34,530,000)
	<u>\$35,330,000</u>
Multimodal Transportation Account—Federal Appropriation.	(\$9,499,000)
	<u>\$10,088,000</u>
<u>Multimodal Transportation Account—Local Appropriation.</u>	<u>\$9,787,000</u>
Washington Fruit Express Account—State Appropriation.	\$500,000
TOTAL APPROPRIATION	(\$45,299,000)
	<u>\$56,475,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The multimodal transportation account—state appropriation includes \$30,000,000 in proceeds from the sale of bonds authorized by Senate Bill No. 6062. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(2) \$4,530,000 of the multimodal transportation account—state appropriation, \$9,499,000 of the multimodal transportation account—federal appropriation, \$500,000 of the Washington fruit express account—state appropriation, and \$770,000 of the essential rail assistance account—state appropriation are provided solely for capital projects as listed in the Legislative 2003 Transportation Project List - Current Law as transmitted to the LEAP on ~~(April 27, 2003)~~ March 11, 2004.

(3) \$1,230,000 of the multimodal transportation account—state appropriation and \$770,000 of the essential rail assistance account—state appropriation is to be placed in reserve status by the office of financial management to be held until the department identifies the location for a new transload facility at either Wenatchee or Quincy. The funds are to be released upon determination of a location and approval by the office of financial management.

(4) \$30,000,000 of the multimodal transportation account—state appropriation is provided solely for capital projects as listed in the Legislative 2003 Transportation Project List - New Law as transmitted to the LEAP on ~~(April 27, 2003)~~ March 11, 2004.

(5) If federal block grant funding for freight or passenger rail is received, the department shall consult with the legislative transportation committee prior to spending the funds on additional projects.

(6) If the department issues a call for projects, applications must be received by the department by November 1, 2003, and November 1, 2004.

(7) The department may not execute the Palouse River & Coulee City Rail purchase until the chairs of the transportation committees of the legislature have reviewed, and the office of financial management has approved, a business plan that demonstrates the long term financial viability of state-

owned, privately operated short rail service. The office of financial management shall issue to the chairs of the transportation committees of the legislature a report outlining reasons for the acceptance or rejection of the plan.

*Sec. 305 was partially vetoed. See message at end of chapter.

Sec. 306. 2003 c 360 s 310 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—CAPITAL

Highway Infrastructure Account—State Appropriation	\$207,000
Highway Infrastructure Account—Federal Appropriation	\$1,602,000
Motor Vehicle Account—State Appropriation	((28,425,000))
	\$34,496,000
<u>Motor Vehicle Account—Federal Appropriation</u>	<u>\$1,000,000</u>
Multimodal Transportation Account—State	
Appropriation	((13,726,000))
	\$16,476,000
TOTAL APPROPRIATION	((43,960,000))
	\$53,781,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$6,000,000 of the multimodal transportation account—state appropriation is provided solely for the projects and activities as indicated in the Legislative 2003 Transportation Project List - New Law Local Projects report transmitted to LEAP on April 27, 2003.

(2) To manage some projects more efficiently, federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. However, funds may not be transferred between federal programs. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the transportation commission. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2004.

(3) \$7,576,000 of the multimodal transportation account—state appropriation is reappropriated and provided solely to fund the first phase of a multiphase cooperative project with the state of Oregon to dredge the Columbia River. If dredge material is disposed of in the ocean, the department shall not expend the appropriation in this subsection unless agreement on ocean disposal sites has been reached that protects the state's commercial crab fishery. The amount provided in this subsection shall lapse unless the state of Oregon appropriates a dollar-for-dollar match to fund its share of the project.

(4) ~~((1,156,000))~~ \$647,000 of the motor vehicle account—state appropriation is reappropriated and provided solely for additional small city pavement preservation program grants, to be administered by the department's highways and local programs division. The department shall review all projects receiving grant awards under this program at least semiannually to determine

whether the projects are making satisfactory progress. Any project that has been awarded small city pavement preservation program grant funds, but does not report activity on the project within one year of grant award, should be reviewed by the department to determine whether the grant should be terminated. The department must promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award. The department shall expeditiously extend new grant awards to qualified projects when funds become available either because grant awards have been rescinded for lack of sufficient project activity or because completed projects returned excess grant funds upon project closeout.

(5) ~~(\$4,010,000)~~ \$3,156,000 of the motor vehicle account—state appropriation is reappropriated and provided solely for additional traffic and pedestrian safety improvements near schools. The highways and local programs division within the department of transportation shall administer this program. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded traffic and pedestrian safety improvement grant funds, but does not report activity on the project within one year of grant award should be reviewed by the department to determine whether the grant should be terminated. The department must promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award. The department shall expeditiously extend new grant awards to qualified projects when funds become available either because grant awards have been rescinded for lack of sufficient project activity or because completed projects returned excess grant funds upon project closeout.

(6) The motor vehicle account—state appropriation includes ~~(\$20,452,000)~~ \$15,317,000 in unexpended proceeds from the sale of bonds authorized by RCW 47.10.843.

(7) The multimodal transportation account—state appropriation includes \$6,000,000 in proceeds from the sale of bonds authorized by Senate Bill No. 6062. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(8) \$500,000 of the multimodal account—state appropriation is provided solely to complete the engineering and permitting necessary to implement the Skagit county flood control project.

(9) \$1,000,000 of the multimodal transportation account—state appropriation is provided solely to support the safe routes to school program.

(10) \$12,670,000 of the motor vehicle account—state appropriation is provided solely for the local freight projects identified in this subsection. The specific funding listed is provided solely for the respective projects: SR 397 Ainsworth Ave. Grade Crossing, \$4,650,000; Colville Alternate Truck Route, \$2,000,000; S. 228th Street Extension and Grade Separation, \$2,000,000; Duwamish Intelligent Transportation Systems (ITS), \$450,000; Bigelow Gulch Road-Urban Boundary to Argonne Rd., \$500,000; Granite Falls Alternate Route, \$1,800,000; Port of Kennewick/Piert Road, \$520,000; and Pacific Hwy. E./Port of Tacoma Road to Alexander, \$750,000.

(11) \$1,250,000 of the multimodal account—state appropriation is provided solely for the Port of Kalama Grain terminal track improvement project.

TRANSFERS AND DISTRIBUTIONS

Sec. 401. 2003 c 360 s 401 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE

Highway Bond Retirement Account Appropriation	((<u>\$258,971,000</u>))
	<u>\$250,000,000</u>
Nondebt-Limit Reimbursable Account Appropriation	\$4,131,000
Ferry Bond Retirement Account Appropriation	\$43,340,000
Transportation Improvement Board Bond Retirement Account—State Appropriation	\$36,721,000
Motor Vehicle Account—State Appropriation	((\$3,876,000))
	<u>\$5,254,000</u>
Special Category C Account—State Appropriation	((\$331,000))
	<u>\$338,000</u>
Transportation Improvement Account—State Appropriation	\$240,000
Multimodal Transportation Account—State Appropriation	\$358,000
Transportation 2003 Account (nickel account) Appropriation	((\$2,100,000))
	<u>\$2,117,000</u>
TOTAL APPROPRIATION	((\$350,068,000))
	<u>\$342,499,000</u>

Sec. 402. 2003 c 360 s 402 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES

Motor Vehicle Account—State Appropriation	\$1,293,000
Special Category C Account Appropriation	\$111,000
Transportation Improvement Account—State Appropriation	((\$5,000))
	<u>\$21,000</u>
Multimodal Transportation Account—State Appropriation	\$119,000
Transportation 2003 Account (nickel account)—State Appropriation	\$700,000
TOTAL APPROPRIATION	((\$2,228,000))
	<u>\$2,244,000</u>

Sec. 403. 2003 c 360 s 403 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR MVFT BONDS AND TRANSFERS

(1) Motor Vehicle Account—State Reappropriation:

For transfer to the Tacoma Narrows toll bridge account \$567,000,000

The department of transportation is authorized to sell up to \$567,000,000 in bonds authorized by RCW 47.10.843 for the Tacoma Narrows bridge project. Proceeds from the sale of the bonds shall be deposited into the motor vehicle account. The department of transportation shall inform the treasurer of the amount to be deposited.

(2) Motor Vehicle Account—State Appropriation:

For transfer to the Puget Sound capital construction account ((~~\$45,000,000~~))
\$29,385,000

The department of transportation is authorized to sell up to ((~~\$45,000,000~~)) \$29,385,000 in bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead-time materials acquisition for the Washington state ferries.

Sec. 404. 2003 c 360 s 404 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

Motor Vehicle Account Appropriation for motor vehicle fuel tax distributions to cities and counties ((~~\$441,359,000~~))
\$440,228,000

Motor Vehicle Account—State Appropriation:

For license permit and fee distributions to cities and counties ((~~\$51,652,000~~))
\$13,119,000

Sec. 405. 2003 c 360 s 405 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—TRANSFERS

(1) State Patrol Highway Account—State

Appropriation: For transfer to the Motor Vehicle Account \$20,000,000

(2) Motor Vehicle Account—State

Appropriation: For motor vehicle fuel tax refunds and transfers ((~~\$465,152,000~~))
\$770,347,000

(3) Highway Safety Account—State

Appropriation: For transfer to the motor vehicle account—state \$12,000,000

The state treasurer shall perform the transfers from the state patrol highway account and the highway safety account to the motor vehicle account on a quarterly basis.

Sec. 406. 2003 c 360 s 406 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—TRANSFERS

(1) Motor Vehicle Account—State Appropriation:

For transfer to Puget Sound Ferry Operations Account	\$21,757,000
(2) RV Account—State Appropriation:	
For transfer to the Motor Vehicle Account—State	\$1,954,000
(3) Motor Vehicle Account—State Appropriation:	
For transfer to Puget Sound Capital Construction Account	((\$64,287,000))
	<u>\$61,287,000</u>
(4) Puget Sound Ferry Operations Account—State Appropriation: For transfer to Puget Sound Capital Construction Account	\$22,000,000
(5) <u>Transportation Equipment Fund—State Appropriation: For transfer to the Motor Vehicle Account—State</u>	<u>\$5,000,000</u>
(6) <u>Advanced Right-of-Way Revolving Account—State Appropriation: For transfer to the Motor Vehicle Account—State</u>	<u>\$3,000,000</u>

The transfers identified in this section are subject to the following conditions and limitations:

- (a) The department of transportation shall only transfer funds in subsections (2) and (3) of this section up to the level provided, on an as-needed basis.
- (b) The department of transportation shall transfer funds in subsection (4) of this section up to the amount identified, provided that a minimum balance of \$5,000,000 is retained in the Puget Sound ferry operations account.
- (c) The amount identified in subsection (4) of this section may not include any revenues collected as passenger fares.

Sec. 407. 2003 c 360 s 407 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—TRANSFERS

State Patrol Highway Account: For transfer to the department of retirement systems expense account: For the administrative expenses of the ((judicial)) <u>Washington state patrol retirement system</u>	((\$223,304))
	<u>\$290,000</u>

MISCELLANEOUS

Sec. 501. RCW 70.94.996 and 2003 c 364 s 9 are each amended to read as follows:

- (1) To the extent that funds are appropriated, the department of transportation shall administer a performance-based grant program for private employers, public agencies, nonprofit organizations, developers, and property managers who provide financial incentives for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting, including telework, before July 1, 2013, to their own or other employees.
- (2) The amount of the grant will be determined based on the value to the transportation system of the vehicle trips reduced. The commute trip reduction task force shall develop an award rate giving priority to applications achieving

the greatest reduction in trips and commute miles per public dollar requested and considering the following criteria: The local cost of providing new highway capacity, congestion levels, and geographic distribution.

(3) No private employer, public agency, nonprofit organization, developer, or property manager is eligible for grants under this section in excess of one hundred thousand dollars in any fiscal year.

(4) The total of grants provided under this section may not exceed seven hundred fifty thousand dollars in any fiscal year. However, this subsection does not apply during the 2003-2005 fiscal biennium.

(5) The department of transportation shall report to the department of revenue by the 15th day of each month the aggregate monetary amount of grants provided under this section in the prior month and the identity of the recipients of those grants.

(6) The source of funds for this grant program is the multimodal transportation account.

(7) This section expires January 1, 2014.

NEW SECTION. Sec. 502. A new section is added to 2003 c 360 (uncodified) to read as follows:

The department is given the authority to provide up to \$3,000,000 in toll credits to Kitsap transit for its role in new passenger-only ferry service. The number of toll credits provided to Kitsap transit must be equal to, but no more than, a number sufficient to meet federal match requirements for grant funding for passenger-only ferry service, but shall not exceed the amount authorized under this section.

NEW SECTION. Sec. 503. A new section is added to 2003 c 360 (uncodified) to read as follows:

(1) The transportation commission may authorize a transfer of spending allocation within the appropriation provided and between projects as listed in the Legislative 2003 Transportation Project List - New Law to manage project spending near biennial cutoffs under the following conditions and limitations:

(a) Transfers from a project may be made if the funds allocated to the project are in excess of the amount needed to complete the project, but transfers may only be made in the biennium in which the savings occur;

(b) Transfers from a project may not be made as a result of the reduction of the scope of a project, nor shall a transfer be made to support increases in the scope of a project;

(c) Transfers may be made within the current biennium from projects that are experiencing unavoidable expenditure delays, but the transfers may only occur if the commission finds that any resulting change to the nickel program financial plan provides that all projects on the list may be completed as intended by the legislature; and

(d) Transfers may not occur to projects not identified on the list.

NEW SECTION. Sec. 504. A new section is added to 2003 c 360 (uncodified) to read as follows:

INFORMATION SYSTEMS PROJECTS. Agencies shall comply with the following requirements regarding information systems projects when specifically directed to do so by this act.

(1) Agency planning and decisions concerning information technology shall be made in the context of its information technology portfolio. "Information technology portfolio" means a strategic management approach in which the relationships between agency missions and information technology investments can be seen and understood, such that: Technology efforts are linked to agency objectives and business plans; the impact of new investments on existing infrastructure and business functions are assessed and understood before implementation; and agency activities are consistent with the development of an integrated, nonduplicative statewide infrastructure.

(2) Agencies shall use their information technology portfolios in making decisions on matters related to the following:

- (a) System refurbishment, acquisitions, and development efforts;
- (b) Setting goals and objectives for using information technology in meeting legislatively-mandated missions and business needs;
- (c) Assessment of overall information processing performance, resources, and capabilities;
- (d) Ensuring appropriate transfer of technological expertise for the operation of any new systems developed using external resources; and
- (e) Progress toward enabling electronic access to public information.

(3) Each project will be planned and designed to take optimal advantage of Internet technologies and protocols. Agencies shall ensure that the project is in compliance with the architecture, infrastructure, principles, policies, and standards of digital government as maintained by the information services board.

(4) The agency shall produce a feasibility study for information technology projects at the direction of the information services board and in accordance with published department of information services policies and guidelines. At a minimum, such studies shall include a statement of: (a) The purpose or impetus for change; (b) the business value to the agency, including an examination and evaluation of benefits, advantages, and cost; (c) a comprehensive risk assessment based on the proposed project's impact on both citizens and state operations, its visibility, and the consequences of doing nothing; (d) the impact on agency and statewide information infrastructure; and (e) the impact of the proposed enhancements to an agency's information technology capabilities on meeting service delivery demands.

(5) The agency shall produce a comprehensive management plan for each project. The plan or plans shall address all factors critical to successful completion of each project. The plan(s) shall include, but is not limited to, the following elements: A description of the problem or opportunity that the information technology project is intended to address; a statement of project objectives and assumptions; a definition and schedule of phases, tasks, and activities to be accomplished; and the estimated cost of each phase. The planning for the phased approach shall be such that the business case justification for a project needs to demonstrate how the project recovers cost or adds measurable value or positive cost benefit to the agency's business functions within each development cycle.

(6) The agency shall produce quality assurance plans for information technology projects. Consistent with the direction of the information services board and the published policies and guidelines of the department of information services, the quality assurance plan shall address all factors critical to successful

completion of the project and successful integration with the agency and state information technology infrastructure. At a minimum, quality assurance plans shall provide time and budget benchmarks against which project progress can be measured, a specification of quality assurance responsibilities, and a statement of reporting requirements. The quality assurance plans shall set out the functionality requirements for each phase of a project.

(7) A copy of each feasibility study, project management plan, and quality assurance plan shall be provided to the department of information services, the office of financial management, and legislative fiscal committees. The plans and studies shall demonstrate a sound business case that justifies the investment of taxpayer funds on any new project, an assessment of the impact of the proposed system on the existing information technology infrastructure, the disciplined use of preventative measures to mitigate risk, and the leveraging of private-sector expertise as needed. Authority to expend any funds for individual information systems projects is conditioned on the approval of the relevant feasibility study, project management plan, and quality assurance plan by the department of information services and the office of financial management.

(8) Quality assurance status reports shall be submitted to the department of information services, the office of financial management, and legislative fiscal committees at intervals specified in the project's quality assurance plan.

***NEW SECTION. Sec. 505.** *A new section is added to 2003 c 360 (uncodified) to read as follows:*

(1) It is the intent of the legislature that the freight mobility account created in Substitute Senate Bill No. 6680 maintain a zero or positive cash balance at the end of each biennium. Toward this purpose the Washington state department of transportation may make expenditures from the account before receiving reimbursements. Before the end of the biennium, the department shall transfer sufficient cash to cover any negative cash balances from the motor vehicle fund and the multimodal transportation account to the freight mobility account for unrecovered reimbursements. The department shall calculate the distribution of this transfer based on expenditures. In the ensuing biennium the department shall transfer the reimbursements received in the freight mobility account back to the motor vehicle fund and the multimodal transportation account to the extent of the cash transferred at biennium end. The department shall also distribute any interest charges accruing to the freight mobility account to the motor vehicle fund and the multimodal transportation account. Adjustments for any indirect cost recoveries may also be made at this time.

(2) This section is null and void unless either Engrossed Substitute Senate Bill No. 6701 or Engrossed Substitute Senate Bill No. 6680 is enacted by June 30, 2004.

*Sec. 505 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 506. *A new section is added to 2003 c 360 (uncodified) to read as follows:*

Washington state ferries are more than a symbol of the state's natural beauty and economic vitality. They also are a critical component of our state's transportation system, serving as an extension of our land-based highways and transit systems, connecting Washington's people, jobs, and communities.

The investments made in the 2003 transportation funding package provide the foundation for a marine transportation system that coordinates Washington's cross-Sound marine transportation and our land-based transportation alternatives to create a fully integrated marine/land multimodal transportation system. Achieving this will require the development of a long-range vision and supporting strategy that will provide the policy guidance to define and maximize efficient delivery of quality marine transportation service to the traveling public.

(1) To accomplish this, the Washington state department of transportation shall develop a vision statement and 10-year strategy for the future development of Washington's multimodal water-based transportation system.

(a) This strategy shall recommend the most appropriate means of moving foot passengers across central Puget Sound, using Washington state ferries, alternative operators, or a combination of both, in the immediate future and over the longer term:

(i) Giving priority to those routes where passenger service likely will be provided at least for the near term on passenger-only vessels, such as Vashon-Seattle, Kingston-Seattle, Southworth-Seattle, and Clinton-Seattle. Consideration shall be given to existing public-private partnership opportunities;

(ii) Considering how service patterns will best fit in the near and long term with development goals and opportunities of Colman Dock as a major hub for integrating water transportation with other transportation modes in downtown Seattle;

(iii) Evaluating how operating economies and reasonable fare box recoveries can be established by scheduling A.M. and P.M. services to match commuter demand and to fit within existing collective bargaining agreements as interpreted and applied to facilitate "split shift" transit-like operations; and

(iv) Providing a vessel plan that most efficiently uses existing state ferry assets and provides for their likely repair and rehabilitation needs, while preserving flexibility to structure services around vessel availability that could rely on purchase or lease of additional vessels, as may suitably be required.

The strategy shall also consider the availability of partnering in operations, vessel deployment, or funding arrangements with other public transportation entities and with the private sector. The study shall also recommend the most effective use of federal funding opportunities for the overall support of integrated water transportation services on the central Puget Sound.

(b) Other components of the strategy shall include but not be limited to:

(i) A long-term plan for the ferry system's existing terminals, considering the revenue generation opportunities and potential for partnering with the private sector where appropriate. This should include a plan for generating other revenues as identified in the 2003 5-5-5 plan; and

(ii) A more equitable fare structure for the San Juan Islands, particularly for island residents.

(2) The department shall consult with key public and private sector stakeholders including business, labor, environmental community representatives, local governments, and transit agencies as part of the development of the vision statement and supporting strategy.

The long-range strategy should also recommend a short-range implementation plan for the 2005-07 biennium. The department shall provide its

recommendations to the transportation committees of the legislature by December 15, 2004.

NEW SECTION. Sec. 507. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 508. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

INDEX	PAGE #
BOARD OF PILOTAGE COMMISSIONERS	905
COUNTY ROAD ADMINISTRATION BOARD	904
DEPARTMENT OF LICENSING	
DRIVER SERVICES	909
INFORMATION SERVICES	907
MANAGEMENT AND SUPPORT SERVICES	907
VEHICLE SERVICES	908
DEPARTMENT OF RETIREMENT SYSTEMS	
TRANSFERS	937
DEPARTMENT OF TRANSPORTATION	
AVIATION—PROGRAM F	911
CHARGES FROM OTHER AGENCIES—PROGRAM U	916
ECONOMIC PARTNERSHIPS—PROGRAM K	912
FACILITY MAINTENANCE, OPERATIONS AND CONSTRUCTION—PROGRAM D	911
HIGHWAY MAINTENANCE—PROGRAM M	912
IMPROVEMENTS—PROGRAM I	922
INFORMATION TECHNOLOGY—PROGRAM C	910
LOCAL PROGRAMS—PROGRAM Z—CAPITAL	933
LOCAL PROGRAMS—PROGRAM Z—OPERATING	921
MARINE—PROGRAM X	918
PRESERVATION—PROGRAM P	927
PROGRAM D—CAPITAL	921
PROGRAM DELIVERY MANAGEMENT AND SUPPORT—PROGRAM H	911
PUBLIC TRANSPORTATION—PROGRAM V	916
RAIL—PROGRAM Y—OPERATING	920
RAIL—PROGRAM Y—CAPITAL	932
TRAFFIC OPERATIONS—PROGRAM Q—OPERATING	913
TRANSFERS	936
TRANSPORTATION MANAGEMENT AND SUPPORT—PROGRAM S	914
TRANSPORTATION PLANNING, DATA, AND RESEARCH—PROGRAM T	914
WASHINGTON STATE FERRIES CONSTRUCTION—PROGRAM W	929
FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD	905
INFORMATION SYSTEMS PROJECTS	938

MARINE EMPLOYEES COMMISSION 904
 OFFICE OF FINANCIAL MANAGEMENT
 INITIATIVE MEASURE NO. 776 COSTS 904
 STATE TREASURER
 BOND RETIREMENT AND INTEREST 935
 STATE REVENUES FOR DISTRIBUTION 936
 TRANSFERS 936
 TRANSPORTATION COMMISSION 905
 TRANSPORTATION IMPROVEMENT BOARD 904
 WASHINGTON STATE PATROL
 FIELD OPERATIONS BUREAU 905
 SUPPORT SERVICES BUREAU 906

Passed by the House March 11, 2004.

Passed by the Senate March 11, 2004.

Approved by the Governor March 31, 2004, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 31, 2004.

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

"I am returning herewith, without my approval as to sections 216; 224(5); 225(3); 302(4)(b); 305(7); and 505, Engrossed Substitute House Bill No. 2474 entitled:

"AN ACT Relating to transportation funding and appropriations;"

Section 216, page 13, Department of Transportation - Economic Partnerships

This section would have provided \$400,000 for a traffic study and an economic analysis related to constructing a connection between State Route 504 and Forest Service Road 99. In 2001, the Department of Transportation completed a study on this project, and it does not consider additional study of the project to be a high priority. While there may be rural economic development benefits to such a road connection, existing state transportation funding remains quite limited and should be reserved for higher priority projects.

Section 224(5), page 25, Department of Transportation - Rail

This section would have directed the Department to perform an origin and destination study by July 1, 2004. No funding was appropriated for this purpose. Nonetheless, the Department has indicated that it will look for opportunities to collect comparable data to achieve the goal of the study. As it does this, the Department should communicate to the Legislature by July 1, 2004 regarding currently available data, and other relevant information that supports the rationale for the new passenger train cost sharing agreement.

Section 225(3), page 25, Department of Transportation - Local Programs

This section would have required that the state historic preservation officer be appointed to a committee appointed by the Governor. This is an unnecessary intrusion into executive authority. Notwithstanding this, it is anticipated that the state historic preservation officer will be included in a steering committee where historic preservation issues will be considered.

Section 302(4)(b), page 28, Department of Transportation - Improvements

This section would have provided \$100,000 to the Department to analyze the costs and benefits of having high-occupancy lanes in the right lane, instead of the left lane. The Department has analyzed the placement of the high-occupancy lanes, and another study is unnecessary.

Section 305(7), page 41, Department of Transportation - Rail

This section would have directed the Department to provide the Legislature and the Office of Financial Management (OFM) with a business plan for purchasing the Palouse River and Coulee

City Railroad. Further, it would have directed that the purchase may not be executed until OFM has approved the plan. No additional funding was provided for this purpose. In addition, the Department, which has expertise in rail operations and financial management, has already reviewed the financial issues related to purchasing this railroad, so another study is unnecessary.

Section 505, page 52

This section referenced two bills, Substitute Senate Bill No. 6680 and Engrossed Substitute Senate Bill No. 6701, that were not approved during the 2004 legislative session. Therefore, I have vetoed this section.

For these reasons, I have vetoed sections 216; 224(5); 225(3); 302(4)(b); 305(7); and 505 of Engrossed Substitute House Bill No. 2474.

With the exception of sections 216; 224(5); 225(3); 302(4)(b); 305(7); and 505, Engrossed Substitute House Bill No. 2474 is approved."

CHAPTER 230

[House Bill 2476]

TOLL COLLECTION

AN ACT Relating to toll collection; reenacting and amending RCW 46.12.370; and adding a new section to chapter 47.46 RCW.

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

Sec. 1. RCW 46.12.370 and 1997 c 432 s 6 and 1997 c 33 s 1 are each reenacted and amended to read as follows:

In addition to any other authority which it may have, the department of licensing may furnish lists of registered and legal owners of motor vehicles only for the purposes specified in this section to:

(1) The manufacturers of motor vehicles, or their authorized agents, to be used to enable those manufacturers to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. sec. 1382-1418), including amendments or additions thereto, respecting safety-related defects in motor vehicles;

(2) Any governmental agency of the United States or Canada, or political subdivisions thereof, to be used by it or by its authorized commercial agents or contractors only in connection with the enforcement of motor vehicle or traffic laws by, or programs related to traffic safety of, that government agency. Only such parts of the list as are required for completion of the work required of the agent or contractor shall be provided to such agent or contractor;

(3) A commercial parking company requiring the names and addresses of registered owners to notify them of outstanding parking violations. Subject to the disclosure agreement provisions of RCW 46.12.380 and the requirements of Executive Order 97-01, the department may provide only the parts of the list that are required for completion of the work required of the company;

(4) An authorized agent or contractor of the department, to be used only in connection with providing motor vehicle excise tax, licensing, title, and registration information to motor vehicle dealers; ~~((or))~~

(5) Any business regularly making loans to other persons to finance the purchase of motor vehicles, to be used to assist the person requesting the list to determine ownership of specific vehicles for the purpose of determining whether or not to provide such financing; or

(6) A company or its agents operating a toll facility under chapter 47.46 RCW or other applicable authority requiring the names, addresses, and vehicle information of motor vehicle registered owners to identify toll violators.

~~((In the event))~~ If a list of registered and legal owners of motor vehicles is used for any purpose other than that authorized in this section, the manufacturer, governmental agency, commercial parking company, authorized agent, contractor, financial institution, toll facility operator, or their authorized agents or contractors responsible for the unauthorized disclosure or use will be denied further access to such information by the department of licensing.

NEW SECTION. Sec. 2. A new section is added to chapter 47.46 RCW to read as follows:

(1) Tolls may be collected by any system that identifies the correct toll and collects the payment. Systems may include manual cash collection, electronic toll collection, and photo monitoring systems.

(a) "Electronic toll collection system" means a system of collecting tolls or charges that is capable of charging the account of the toll patron the appropriate toll or charge by electronic transmission from the motor vehicle to the toll collection system, which information is used to charge the appropriate toll or charge to the patron's account. The department shall adopt rules that allow an open standard for automatic vehicle identification transponders used for electronic toll collection to be compatible with other electronic payment devices or transponders from the Washington state ferry system, other public transportation systems, or other toll collection systems to the extent that technology permits. The rules must also allow for multiple vendors providing electronic payment devices or transponders as technology permits.

(b) "Photo monitoring system" means a vehicle sensor installed to work in conjunction with an electronic toll collection system in a toll facility that automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of each vehicle at the time it is used or operated within a toll facility.

(c) No photograph, digital photograph, microphotograph, videotape, or other recorded image may be used for any purpose other than toll enforcement, nor retained longer than necessary to verify that tolls are paid, or to enforce toll evasion violations.

(2) The department shall adopt rules to govern toll collection.

Passed by the House March 10, 2004.

Passed by the Senate March 5, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 23I

[Substitute House Bill 2475]

TOLL EVASION

AN ACT Relating to toll evasion; amending RCW 46.61.690, 46.63.030, 46.16.216, and 46.20.270; and adding new sections to chapter 46.63 RCW.

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

Sec. 1. RCW 46.61.690 and 1983 c 247 s 1 are each amended to read as follows:

Any person who uses a toll bridge, toll tunnel, toll road, or toll ferry, and the approaches thereto, operated by the state of Washington, the department of transportation, ~~((or any))~~ a political subdivision or municipal corporation empowered to operate toll facilities, or an entity operating a toll facility under a contract with the department of transportation, a political subdivision, or municipal corporation, at the entrance to which appropriate signs have been erected to notify both pedestrian and vehicular traffic that it is entering a toll facility or its approaches and is subject to the payment of tolls at the designated station for collecting tolls, commits a traffic infraction if:

(1) ~~((Such))~~ The person does not pay, refuses to pay, evades, or attempts to evade the payment of such tolls, or uses or attempts to use any spurious ~~((or)),~~ counterfeit, or stolen ticket~~((s))~~, coupon~~((s))~~, ~~((or))~~ token~~((s))~~, or electronic device for payment of any such tolls, or

(2) ~~((Such))~~ The person turns, or attempts to turn, the vehicle around in the bridge, tunnel, loading terminal, approach, or toll plaza where signs have been erected forbidding such turns, or

(3) ~~((Such))~~ The person refuses to move a vehicle through the toll ~~((gates))~~ facility after having come within the area where signs have been erected notifying traffic that it is entering the area where toll is collectible or where vehicles may not turn around and where vehicles are required to pass through the toll ~~((gates))~~ facility for the purpose of collecting tolls.

Sec. 2. RCW 46.63.030 and 2002 c 279 s 14 are each amended to read as follows:

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

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

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

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

(d) When the notice of infraction is detected through the use of a photo enforcement system under section 6 of this act.

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

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

(4) In the case of failure to redeem an abandoned vehicle under RCW 46.55.120, upon receiving a complaint by a registered tow truck operator that has incurred costs in removing, storing, and disposing of an abandoned vehicle, an officer of the law enforcement agency responsible for directing the removal of the vehicle shall send a notice of infraction by certified mail to the last known

address of the person responsible under RCW 46.55.105. The notice must be entitled "Littering—Abandoned Vehicle" and give notice of the monetary penalty. The officer shall append to the notice of infraction, on a form prescribed by the department of licensing, a notice indicating the amount of costs incurred as a result of removing, storing, and disposing of the abandoned vehicle, less any amount realized at auction, and a statement that monetary penalties for the infraction will not be considered as having been paid until the monetary penalty payable under this chapter has been paid and the court is satisfied that the person has made restitution in the amount of the deficiency remaining after disposal of the vehicle.

NEW SECTION. Sec. 3. A new section is added to chapter 46.63 RCW to read as follows:

(1) In a traffic infraction case involving an infraction detected through the use of a photo enforcement system under section 6 of this act, proof that the particular vehicle described in the notice of traffic infraction was in violation of any such provision of section 6 of this act, together with proof that the person named in the notice of traffic infraction was at the time of the violation the registered owner of the vehicle, constitutes in evidence a prima facie presumption that the registered owner of the vehicle was the person in control of the vehicle at the point where, and for the time during which, the violation occurred.

(2) This presumption may be overcome only if the registered owner states, under oath, in a written statement to the court or in testimony before the court that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner.

Sec. 4. RCW 46.16.216 and 1990 2nd ex.s. c 1 s 401 are each amended to read as follows:

(1) To renew a vehicle license, an applicant shall satisfy all listed standing, stopping, and parking violations, and other infractions issued under RCW 46.63.030(1)(d) for the vehicle incurred while the vehicle was registered in the applicant's name and forwarded to the department pursuant to RCW 46.20.270(3). For the purposes of this section, "listed" standing, stopping, and parking violations, and other infractions issued under RCW 46.63.030(1)(d) include only those violations for which notice has been received from state or local agencies or courts by the department one hundred twenty days or more before the date the vehicle license expires and that are placed on the records of the department. Notice of such violations received by the department later than one hundred twenty days before that date that are not satisfied shall be considered by the department in connection with any applications for license renewal in any subsequent license year. The renewal application may be processed by the department or its agents only if the applicant:

(a) Presents a preprinted renewal application showing no listed standing, stopping, ~~((and))~~ or parking violations, or other infractions issued under RCW 46.63.030(1)(d), or in the absence of such presentation, the agent verifies the information that would be contained on the preprinted renewal application; or

(b) If listed standing, stopping, ~~((and))~~ or parking violations, or other infractions issued under RCW 46.63.030(1)(d) exist, presents proof of payment and pays a fifteen dollar surcharge.

(2) The surcharge shall be allocated as follows:

(a) Ten dollars shall be deposited in the motor vehicle fund to be used exclusively for the administrative costs of the department of licensing; and

(b) Five dollars shall be retained by the agent handling the renewal application to be used by the agent for the administration of this section.

(3) If there is a change in the registered owner of the vehicle, the department shall forward the information regarding the change to the state or local charging jurisdiction and release any hold on the renewal of the vehicle license resulting from parking violations or other infractions issued under RCW 46.63.030(1)(d) incurred while the certificate of license registration was in a previous registered owner's name.

(4) The department shall send to all registered owners of vehicles who have been reported to have outstanding listed parking violations or other infractions issued under RCW 46.63.030(1)(d), at the time of renewal, a statement setting out the dates and jurisdictions in which the violations occurred as well as the amounts of unpaid fines and penalties relating to them and the surcharge to be collected.

Sec. 5. RCW 46.20.270 and 1990 2nd ex.s. c 1 s 402 are each amended to read as follows:

(1) Whenever any person is convicted of any offense for which this title makes mandatory the suspension or revocation of the driver's license of such person by the department, the privilege of the person to operate a vehicle is suspended until the department takes the action required by this chapter, and the court in which such conviction is had shall forthwith secure the immediate forfeiture of the driver's license of such convicted person and immediately forward such driver's license to the department, and on failure of such convicted person to deliver such driver's license the judge shall cause such person to be confined for the period of such suspension or revocation or until such driver's license is delivered to such judge: **PROVIDED**, That if the convicted person testifies that he or she does not and at the time of the offense did not have a current and valid vehicle driver's license, the judge shall cause such person to be charged with the operation of a motor vehicle without a current and valid driver's license and on conviction punished as by law provided, and the department may not issue a driver's license to such persons during the period of suspension or revocation: **PROVIDED, ALSO**, That if the driver's license of such convicted person has been lost or destroyed and such convicted person makes an affidavit to that effect, sworn to before the judge, the convicted person may not be so confined, but the department may not issue or reissue a driver's license for such convicted person during the period of such suspension or revocation: **PROVIDED**, That perfection of notice of appeal shall stay the execution of sentence including the suspension and/or revocation of the driver's license.

(2) Every court having jurisdiction over offenses committed under this chapter, or any other act of this state or municipal ordinance adopted by a local authority regulating the operation of motor vehicles on highways, or any federal authority having jurisdiction over offenses substantially the same as those set forth in Title 46 RCW which occur on federal installations within this state, shall forward to the department within ten days of a forfeiture of bail or collateral deposited to secure the defendant's appearance in court, a payment of a fine or penalty, a plea of guilty or a finding of guilt, or a finding that any person has

committed a traffic infraction an abstract of the court record in the form prescribed by rule of the supreme court, showing the conviction of any person or the finding that any person has committed a traffic infraction in said court for a violation of any said laws other than regulations governing standing, stopping, parking, and pedestrian offenses.

(3) Every state agency or municipality having jurisdiction over offenses committed under this chapter, or under any other act of this state or municipal ordinance adopted by a state or local authority regulating the operation of motor vehicles on highways, may forward to the department within ten days of failure to respond, failure to pay a penalty, failure to appear at a hearing to contest the determination that a violation of any statute, ordinance, or regulation relating to standing, stopping, ~~((or))~~ parking, or other infraction issued under RCW 46.63.030(1)(d) has been committed, or failure to appear at a hearing to explain mitigating circumstances, an abstract of the citation record in the form prescribed by rule of the department, showing the finding by such municipality that two or more violations of laws governing standing, stopping, and parking or one or more other infractions issued under RCW 46.63.030(1)(d) have been committed and indicating the nature of the defendant's failure to act. Such violations or infractions may not have occurred while the vehicle is stolen from the registered owner or is leased or rented under a bona fide commercial vehicle lease or rental agreement between a lessor engaged in the business of leasing vehicles and a lessee who is not the vehicle's registered owner. The department may enter into agreements of reciprocity with the duly authorized representatives of the states for reporting to each other violations of laws governing standing, stopping, and parking.

(4) For the purposes of Title 46 RCW the term "conviction" means a final conviction in a state or municipal court or by any federal authority having jurisdiction over offenses substantially the same as those set forth in Title 46 RCW which occur on federal installations in this state, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt on a traffic law violation charge, regardless of whether the imposition of sentence or sanctions are deferred or the penalty is suspended, but not including entry into a deferred prosecution agreement under chapter 10.05 RCW.

(5) For the purposes of Title 46 RCW the term "finding that a traffic infraction has been committed" means a failure to respond to a notice of infraction or a determination made by a court pursuant to this chapter. Payment of a monetary penalty made pursuant to RCW 46.63.070(2) is deemed equivalent to such a finding.

NEW SECTION. Sec. 6. A new section is added to chapter 46.63 RCW to read as follows:

(1) This section applies only to traffic infractions issued under RCW 46.61.690 for toll collection evasion.

(2) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(3) Toll collection systems include manual cash collection, electronic toll collection, and photo enforcement systems.

(4) "Electronic toll collection system" means a system of collecting tolls or charges that is capable of charging the account of the toll patron the appropriate toll or charge by electronic transmission from the motor vehicle to the toll collection system, which information is used to charge the appropriate toll or charge to the patron's account.

(5) "Photo enforcement system" means a vehicle sensor installed to work in conjunction with an electronic toll collection system that automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of a vehicle operated in violation of an infraction under this chapter.

(6) The use of a toll collection system is subject to the following requirements:

(a) The department of transportation shall adopt rules that allow an open standard for automatic vehicle identification transponders used for electronic toll collection to be compatible with other electronic payment devices or transponders from the Washington state ferry system, other public transportation systems, or other toll collection systems to the extent that technology permits. The rules must also allow for multiple vendors providing electronic payment devices or transponders as technology permits.

(b) The department of transportation may not sell, distribute, or make available in any way, the names and addresses of electronic toll collection system account holders.

(7) The use of a photo enforcement system for issuance of notices of infraction is subject to the following requirements:

(a) Photo enforcement systems may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only.

(b) A notice of infraction must be mailed to the registered owner of the vehicle or to the renter of a vehicle within sixty days of the violation. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a photo enforcement system, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter. The photographs, digital photographs, microphotographs, videotape, or other recorded images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction.

(c) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, or other recorded images prepared under this chapter are for the exclusive use of the tolling agency and law enforcement in the discharge of duties under this section and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation under this chapter. No photograph, digital photograph, microphotograph, video tape, or other recorded image may be used for any purpose other than enforcement of violations under this chapter nor retained longer than necessary to enforce this chapter or verify that tolls are paid.

(d) All locations where a photo enforcement system is used must be clearly marked by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by a photo enforcement system.

(8) Infractions detected through the use of photo enforcement systems are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120.

(9) If the registered owner of the vehicle is a rental car business the department of transportation or a law enforcement agency shall, before a notice of infraction being issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen days of the mailing of the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable toll and fee.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction.

Passed by the House March 10, 2004.

Passed by the Senate March 5, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 232

[Engrossed House Bill 1433]

HIGHWAYS—STATEWIDE SIGNIFICANCE

AN ACT Relating to designation of highways of statewide significance; and amending RCW 47.05.022.

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

Sec. 1. RCW 47.05.022 and 2002 c 56 s 302 are each amended to read as follows:

The legislature designates ~~((that portion of state route number 509 that runs or will run from state route number 518 in the north to the intersection with interstate 5 in the south as a state))~~ as highways of statewide significance those highways so designated by transportation commission resolution number 660 as adopted on January 21, 2004.

Passed by the House March 10, 2004.

Passed by the Senate March 5, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 233

[Substitute House Bill 2299]

ANIMAL IDENTIFICATION SYSTEMS

AN ACT Relating to animal identification systems; and adding a new section to chapter 16.57 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 16.57 RCW to read as follows:

(1) The director may adopt rules:

(a) To support the agriculture industry in meeting federal requirements for the country-of-origin labeling of meat. Any requirements established under this subsection for country of origin labeling purposes shall be substantially consistent with and shall not exceed the requirements established by the United States department of agriculture; and

(b) In consultation with the livestock identification advisory board under RCW 16.57.015, to implement federal requirements for animal identification needed to trace the source of livestock for disease control and response purposes.

(2) The director may cooperate with and enter into agreements with other states and agencies of federal government to carry out such systems and to promote consistency of regulation.

Passed by the House March 11, 2004.

Passed by the Senate March 11, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 234

[Substitute House Bill 2802]

NONAMBULATORY LIVESTOCK

AN ACT Relating to penalties for trading in nonambulatory livestock; adding a new section to chapter 16.52 RCW; prescribing penalties; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 16.52 RCW to read as follows:

(1) A person is guilty of a gross misdemeanor punishable as provided in RCW 9A.20.021 if he or she knowingly transports or accepts delivery of live nonambulatory livestock to, from, or between any livestock market, feedlot, slaughtering facility, or similar facility that trades in livestock. The transport or acceptance of each nonambulatory livestock animal is considered a separate and distinct violation.

(2) Nonambulatory livestock must be humanely euthanized before transport to, from, or between locations listed in subsection (1) of this section.

(3) Livestock that was ambulatory prior to transport to a feedlot and becomes nonambulatory because of an injury sustained during transport may be unloaded and placed in a separate pen for rehabilitation at the feedlot.

(4) For the purposes of this section, "nonambulatory livestock" means cattle, sheep, swine, goats, horses, mules, or other equine that cannot rise from a recumbent position or cannot walk, including but not limited to those with

broken appendages, severed tendons or ligaments, nerve paralysis, a fractured vertebral column, or metabolic conditions.

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

Passed by the House March 11, 2004.

Passed by the Senate March 11, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 235

[Substitute House Bill 2929]

BUSINESS AND OCCUPATION TAX—BEEF PROCESSORS

AN ACT Relating to suspending business and occupation taxation on certain businesses impacted by the ban on American beef products; adding a new section to chapter 82.04 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that the recent occurrence of bovine spongiform encephalopathy and the resulting bans on beef imports from the United States have had a severe economic impact on the state's beef processing industry. The legislature intends to provide temporary business and occupation tax relief for Washington's beef processors.

NEW SECTION. Sec. 2. A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing tax there may be deducted from the measure of tax those amounts received for:

(a) Slaughtering cattle, but only if the taxpayer sells the resulting slaughtered cattle at wholesale and not at retail;

(b) Breaking or processing perishable beef products, but only if the perishable beef products are derived from cattle slaughtered by the taxpayer and sold at wholesale only and not at retail;

(c) Wholesale sales of perishable beef products derived from cattle slaughtered by the taxpayer;

(d) Processing nonperishable beef products, but only if the products are derived from cattle slaughtered by the taxpayer and sold at wholesale only and not at retail; and

(e) Wholesale sales of nonperishable beef products derived from cattle slaughtered by the taxpayer.

(2) For the purposes of this section, "beef products" means the carcass, parts of carcass, meat, and meat by-products, derived exclusively from cattle and containing no other ingredients.

(3) The deduction allowed under this section is allowed only for tax liability incurred after the effective date of this section and until the first day of the month following the date on which the bans on the importation of beef and beef products from the United States of America by Japan, Mexico, and the Republic of South Korea have all been lifted.

(4) The department must provide notice, on the department's web site, of the date on which this deduction is no longer available. The notice required by this section does not affect the availability of the deduction under this section.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 11, 2004.

Passed by the Senate March 11, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 236

[Substitute House Bill 1322]

PROPERTY TAX EXEMPTION—TRIBAL LAND

AN ACT Relating to exempting from taxation certain property belonging to any federally recognized Indian tribe located in the state; and amending RCW 84.36.010.

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

Sec. 1. RCW 84.36.010 and 1998 c 179 s 8 are each amended to read as follows:

(1) All property belonging exclusively to the United States, the state, or any county or municipal corporation((:)); all property belonging exclusively to any federally recognized Indian tribe located in the state, if that property is used exclusively for essential government services; all state route number 16 corridor transportation systems and facilities constructed under chapter 47.46 RCW((:)); and all property under a financing contract pursuant to chapter 39.94 RCW or recorded agreement granting immediate possession and use to ~~((said))~~ the public bodies listed in this section or under an order of immediate possession and use pursuant to RCW 8.04.090~~((, shall be))~~; is exempt from taxation. All property belonging exclusively to a foreign national government ~~((shall be))~~ is exempt from taxation if ~~((such))~~ that property is used exclusively as an office or residence for a consul or other official representative of ~~((such))~~ the foreign national government, and if the consul or other official representative is a citizen of ~~((such))~~ that foreign nation.

(2) For the purposes of this section, "essential government services" means services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services.

Passed by the House March 4, 2004.

Passed by the Senate March 11, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 237

[Engrossed Substitute House Bill 2784]

SMALL BUSINESS INCUBATOR PROGRAM

AN ACT Relating to the small business incubator program; and adding a new chapter to Title 43 RCW.

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

NEW SECTION. Sec. 1. It is hereby declared to be the policy of the state of Washington to assist in the creation and expansion of innovative small commercial enterprises that produce marketable goods and services through the employment of Washington residents, the use of technology, and the application of best management practices. This policy is to be implemented through the use of small business incubators.

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

(1) "Business incubator" means a facility that offers:

(a) Space for start-up and expanding firms;

(b) The shared use of equipment and work areas;

(c) Daily management support services essential to high-quality commercial operations; and

(d) Technical assistance.

(2) "Qualified small business incubator" means an incubator that is:

(a)(i) Designated as a nonprofit organization under section 501(c)(3) of the internal revenue code, or (ii) consists of a partnership between a designated nonprofit organization under section 501(c)(3) of the internal revenue code and a government or quasi-government agency;

(b) Focused on developing small businesses in an economically distressed or disadvantaged area; and

(c) Structured around a sound business plan.

NEW SECTION. Sec. 3. (1) The small business incubator program is created in the department of community, trade, and economic development to provide start-up and operating assistance to qualified small business incubators.

(2) The department shall award grants to qualified small business incubator organizations for:

(a) Construction and equipment costs, up to a maximum of three million dollars per recipient; and

(b) Provision of technical assistance to small businesses, up to a maximum of one hundred twenty-five thousand dollars per year per recipient.

(3) The department shall:

(a) Require a grant recipient to show that it has the resources to complete the project in a timely manner and the state grant is not the sole source of funds;

(b) Develop, in conjunction with the Washington association of small business incubators, criteria for receipt of grant funds, including criteria related to organizational capacity, community need, and the availability of other economic development resources;

(c) Accept and receive grants, gifts, and pledges of funds for the support of the small business incubator program, which shall be deposited in the small business incubator account established in section 4 of this act; and

(d) Integrate the promotion of small business incubators as economic development tools in its strategic plan.

NEW SECTION. Sec. 4. The small business incubator account is created in the custody of the state treasurer. All money received for the incubator program under section 3 of this act must be deposited in the account. Expenditures from the account may be used only for the small business incubator program. Only the director of the department of community, trade, and economic development or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 5. This act may be known as the Washington small business incubator and entrepreneurship assistance act of 2004.

NEW SECTION. Sec. 6. The department of community, trade, and economic development shall have no duty to provide services related to the small business incubator and entrepreneurship assistance act of 2004 unless and until the small business incubator program and related administrative expenses are funded by the legislature.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act constitute a new chapter in Title 43 RCW.

Passed by the House March 11, 2004.

Passed by the Senate March 11, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 238

[Engrossed Substitute House Bill 2675]

TAX CREDITS—ELECTRIC UTILITIES

AN ACT Relating to electric utility tax credits; amending RCW 82.16.0491; creating a new section; and providing an effective date.

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

Sec. 1. RCW 82.16.0491 and 1999 c 311 s 402 are each amended to read as follows:

(1) The following definitions apply to this section:

(a) "Qualifying project" means a project designed to achieve job creation or business retention, to add or upgrade nonelectrical infrastructure, to add or upgrade health and safety facilities, to accomplish energy and water use efficiency improvements, including renewable energy development, or to add or upgrade emergency services in any designated qualifying rural area.

(b) "Qualifying rural area" means:

(i) A rural county, which on the date that a contribution is made to an electric utility rural economic development revolving fund is a county with a population density of less than one hundred persons per square mile as determined by the office of financial management (~~and published each year by the department for the period July 1st to June 30th~~); or

(ii) Any geographic area in the state that receives electricity from a light and power business with twelve thousand or fewer customers (~~and with fewer than twenty six meters per mile of distribution line as determined and published by the department of revenue effective July 1st of each year. The department shall use current data provided by the electricity industry~~).

(c) "Electric utility rural economic development revolving fund" means a fund devoted exclusively to funding qualifying projects in qualifying rural areas.

(d) "Local board" is (i) a board of directors with at least, but not limited to, three members representing local businesses and community groups who have been appointed by the sponsoring electric utility to oversee and direct the activities of the electric utility rural economic development revolving fund; or (ii) a board of directors of an existing associate development organization serving the qualifying rural area who have been designated by the sponsoring electrical utility to oversee and direct the activities of the electric utility rural economic development revolving fund.

(2) A light and power business (~~with fewer than twenty six active meters per mile of distribution line in any geographic area in the state~~) shall be allowed a credit against taxes due under this chapter in an amount equal to fifty percent of contributions made in any ~~(calendar)~~ fiscal year directly to an electric utility rural economic development revolving fund. The credit shall be taken in a form and manner as required by the department. The credit under this section shall not exceed twenty-five thousand dollars per ~~(calendar)~~ fiscal year per light and power business. The credit may not exceed the tax that would otherwise be due under this chapter. Refunds shall not be granted in the place of credits. Expenditures not used to earn a credit in one ~~(calendar)~~ fiscal year may not be used to earn a credit in subsequent years, except that this limitation does not apply to expenditures made between January 1, 2004, and March 31, 2004, which expenditures may be used to earn a credit through December 30, 2004.

(3) The right to earn tax credits under this section expires ~~(December 31, 2005)~~ June 30, 2011.

(4) To qualify for the credit in subsection (2) of this section, the light and power business shall establish, or have a local board establish with the business's contribution, an electric utility rural economic development revolving fund which is governed by a local board whose members shall reside or work in the qualifying rural area served by the light and power business. Expenditures from the electric utility rural economic development revolving fund shall be made solely on qualifying projects, and the local board shall have authority to determine all criteria and conditions for the expenditure of funds from the electric utility rural economic development ~~((revolving))~~ revolving fund, and for the terms and conditions of repayment.

(5) Any funds repaid to the electric utility rural economic development ~~((revolving))~~ revolving fund by recipients shall be made available for additional qualifying projects.

(6) If at any time the electric utility rural economic development ~~((revolving))~~ revolving fund is dissolved, any moneys claimed as a tax credit under this section shall either be granted to a qualifying project or refunded to the state within two years of termination.

(7) The total amount of credits that may be used in any fiscal year shall not exceed three hundred fifty thousand dollars in any fiscal year. The department

shall allow the use of earned credits on a first-come, first-served basis. Unused earned credits may be carried over to subsequent years.

(8) The following provisions apply to expenditures under subsection (2) of this section made between January 1, 2004, and March 31, 2004:

(a) Credits earned from such expenditures are not considered in computing the statewide limitation set forth in subsection (7) of this section for the period July 1, 2004, through December 31, 2004; and

(b) For the fiscal year ending June 30, 2005, the credit allowed under this section for light and power businesses making expenditures is limited to thirty-seven thousand five hundred dollars.

NEW SECTION. Sec. 2. (1) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources the legislature needs information to evaluate whether the stated goals of legislation were achieved.

(2) The goal of the tax credit available to light and power businesses for contributing to an electric utility rural economic development revolving fund in section 1 of this act is to support qualifying projects that create or retain jobs, add or upgrade health and safety facilities, facilitate energy and water conservation, or develop renewable sources of energy in a qualified area. The goal of this tax credit is achieved when the investment of the revolving funds established under section 1 of this act have generated capital investment in an amount of four million seven hundred fifty thousand dollars or more within a five-year period.

NEW SECTION. Sec. 3. This act takes effect July 1, 2004.

Passed by the House March 10, 2004.

Passed by the Senate March 4, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 239

[Substitute House Bill 2452]

ELECTRIC UTILITY FACILITIES—SITING

AN ACT Relating to sites for construction and operation of unstaffed public or private electric utility facilities; and amending RCW 58.17.040.

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

Sec. 1. RCW 58.17.040 and 2002 c 44 s 1 are each amended to read as follows:

The provisions of this chapter shall not apply to:

- (1) Cemeteries and other burial plots while used for that purpose;
- (2) Divisions of land into lots or tracts each of which is one-one hundred twenty-eighth of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land, unless the governing authority of the city, town, or county in which the land is situated shall have adopted a subdivision ordinance requiring plat approval of such divisions: PROVIDED, That for purposes of computing the size of any lot under this item which borders on a street or road, the lot size shall be expanded to include that

area which would be bounded by the center line of the road or street and the side lot lines of the lot running perpendicular to such center line;

(3) Divisions made by testamentary provisions, or the laws of descent;

(4) Divisions of land into lots or tracts classified for industrial or commercial use when the city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations;

(5) A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land when the city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations;

(6) A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site;

(7) Divisions of land into lots or tracts if: (a) Such division is the result of subjecting a portion of a parcel or tract of land to either chapter 64.32 or 64.34 RCW subsequent to the recording of a binding site plan for all such land; (b) the improvements constructed or to be constructed thereon are required by the provisions of the binding site plan to be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest; (c) a city, town, or county has approved the binding site plan for all such land; (d) such approved binding site plan is recorded in the county or counties in which such land is located; and (e) the binding site plan contains thereon the following statement: "All development and use of the land described herein shall be in accordance with this binding site plan, as it may be amended with the approval of the city, town, or county having jurisdiction over the development of such land, and in accordance with such other governmental permits, approvals, regulations, requirements, and restrictions that may be imposed upon such land and the development and use thereof. Upon completion, the improvements on the land shall be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest. This binding site plan shall be binding upon all now or hereafter having any interest in the land described herein." The binding site plan may, but need not, depict or describe the boundaries of the lots or tracts resulting from subjecting a portion of the land to either chapter 64.32 or 64.34 RCW. A site plan shall be deemed to have been approved if the site plan was approved by a city, town, or county: (i) In connection with the final approval of a subdivision plat or planned unit development with respect to all of such land; or (ii) in connection with the issuance of building permits or final certificates of occupancy with respect to all of such land; or (iii) if not approved pursuant to (i) and (ii) of this subsection (7)(e), then pursuant to such other procedures as such city, town, or county may have established for the approval of a binding site plan; (~~and~~)

(8) A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless services" means any federally licensed personal wireless service. "Facilities"

means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures; and

(9) A division of land into lots or tracts of less than three acres that is recorded in accordance with chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities. For purposes of this subsection, "electric utility facilities" means unstaffed facilities, except for the presence of security personnel, that are used for or in connection with or to facilitate the transmission, distribution, sale, or furnishing of electricity including, but not limited to, electric power substations. This subsection does not exempt a division of land from the zoning and permitting laws and regulations of cities, towns, counties, and municipal corporations. Furthermore, this subsection only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility's existing and new customers. New customers are defined as electric service locations not already in existence as of the date that electric utility facilities subject to the provisions of this subsection are planned and constructed.

Passed by the House March 10, 2004.

Passed by the Senate March 10, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 240

[Engrossed Second Substitute House Bill 2518]

PUBLIC UTILITY TAX EXEMPTION—ELECTROLYTIC PROCESSING

AN ACT Relating to exempting from the state public utility tax the sales of electricity to an electrolytic processing business; adding a new section to chapter 82.16 RCW; adding a new section to chapter 82.32 RCW; and providing an expiration date.

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

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

(1) For the purposes of this section:

(a) "Chlor-alkali electrolytic processing business" means a person who is engaged in a business that uses more than ten average megawatts of electricity per month in a chlor-alkali electrolytic process to split the electrochemical bonds of sodium chloride and water to make chlorine and sodium hydroxide. A "chlor-alkali electrolytic processing business" does not include direct service industrial customers or their subsidiaries that contract for the purchase of power from the Bonneville power administration as of the effective date of this section.

(b) "Sodium chlorate electrolytic processing business" means a person who is engaged in a business that uses more than ten average megawatts of electricity per month in a sodium chlorate electrolytic process to split the electrochemical bonds of sodium chloride and water to make sodium chlorate and hydrogen. A "sodium chlorate electrolytic processing business" does not include direct service industrial customers or their subsidiaries that contract for the purchase of

power from the Bonneville power administration as of the effective date of this section.

(2) Effective July 1, 2004, the tax levied under this chapter does not apply to sales of electricity made by a light and power business to a chlor-alkali electrolytic processing business or a sodium chlorate electrolytic processing business for the electrolytic process if the contract for sale of electricity to the business contains the following terms:

(a) The electricity to be used in the electrolytic process is separately metered from the electricity used for general operations of the business;

(b) The price charged for the electricity used in the electrolytic process will be reduced by an amount equal to the tax exemption available to the light and power business under this section; and

(c) Disallowance of all or part of the exemption under this section is a breach of contract and the damages to be paid by the chlor-alkali electrolytic processing business or the sodium chlorate electrolytic processing business are the amount of the tax exemption disallowed.

(3) The exemption provided for in this section does not apply to amounts received from the remarketing or resale of electricity originally obtained by contract for the electrolytic process.

(4) In order to claim an exemption under this section, the chlor-alkali electrolytic processing business or the sodium chlorate electrolytic processing business must provide the light and power business with an exemption certificate in a form and manner prescribed by the department.

(5)(a) This section does not apply to sales of electricity made after December 31, 2010.

(b) This section expires June 30, 2011.

NEW SECTION. Sec. 2. A new section is added to chapter 82.32 RCW to read as follows:

(1) For the purposes of this section, "electrolytic processing business tax exemption" means the exemption and preferential tax rate under section 1 of this act.

(2) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources, the legislature needs information to evaluate whether the stated goals of legislation were achieved.

(3) The goals of the electrolytic processing business tax exemption are:

(a) To retain family wage jobs by enabling electrolytic processing businesses to maintain production of chlor-alkali and sodium chlorate at a level that will preserve at least seventy-five percent of the jobs that were on the payroll effective January 1, 2004; and

(b) To allow the electrolytic processing industries to continue production in this state through 2011 so that the industries will be positioned to preserve and create new jobs when the anticipated reduction of energy costs occur.

(4)(a) A person who receives the benefit of an electrolytic processing business tax exemption shall make an annual report to the department detailing employment, wages, and employer-provided health and retirement benefits per job at the manufacturing site. The report is due by March 31st following any year in which a tax exemption is claimed or used. The report shall not include names of employees. The report shall detail employment by the total number of

full-time, part-time, and temporary positions. The report shall indicate the quantity of product produced at the plant during the time period covered by the report. The first report filed under this subsection shall include employment, wage, and benefit information for the twelve-month period immediately before first use of a tax exemption. Employment reports shall include data for actual levels of employment and identification of the number of jobs affected by any employment reductions that have been publicly announced at the time of the report. Information in a report under this section is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(b) If a person fails to submit an annual report under (a) of this subsection by the due date of the report, the department shall declare the amount of taxes exempted for that year to be immediately due and payable. Public utility taxes payable under this subsection are subject to interest but not penalties, as provided under this chapter. This information is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(5) By December 1, 2007, and by December 1, 2010, the fiscal committees of the house of representatives and the senate, in consultation with the department, shall report to the legislature on the effectiveness of the tax incentive under section 1 of this act. The report shall measure the effect of the incentive on job retention for Washington residents, and other factors as the committees select. The report shall also discuss expected trends or changes to electricity prices as they affect the industries that benefit from the incentives.

Passed by the House March 11, 2004.

Passed by the Senate March 11, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 241

[Engrossed House Bill 2968]

EXCISE TAX DEDUCTIONS—SALMON RESTORATION

AN ACT Relating to excise tax deductions for governmental payments to nonprofit organizations for salmon restoration; adding a new section to chapter 82.04 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 82.04 RCW to read as follows:

In computing tax there may be deducted from the measure of tax amounts received by a nonprofit organization from the United States or any instrumentality thereof or from the state of Washington or any municipal corporation or political subdivision thereof as grants to support salmon restoration purposes. For the purposes of this section, "nonprofit organization" has the same meaning as in RCW 82.04.3651.

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

Passed by the House February 17, 2004.
Passed by the Senate March 11, 2004.
Approved by the Governor March 31, 2004.
Filed in Office of Secretary of State March 31, 2004.

CHAPTER 242

[House Bill 2537]

PUBLIC SAFETY EMPLOYEES' RETIREMENT SYSTEM PLAN 2

AN ACT Relating to establishing a public safety employees' retirement system plan 2; amending RCW 41.45.010, 41.45.020, 41.45.050, 41.50.030, 41.50.060, 41.50.075, 41.50.080, 41.50.110, 41.50.150, 41.50.152, 41.50.255, 41.50.500, 41.50.670, 41.50.790, 41.40.010, 41.26.500, 41.32.800, 41.35.230, 41.40.690, 41.54.010, 41.54.040, 41.32.802, 41.32.862, and 41.35.060; reenacting and amending RCW 41.45.060, 41.45.061, 41.45.070, 43.84.092, and 41.40.037; adding a new section to chapter 41.40 RCW; adding a new chapter to Title 41 RCW; creating a new section; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. It is the intent of the legislature to establish a separate public safety employees' retirement system for those public employees whose jobs contain a high degree of physical risk to their own personal safety and who engage in duties contained in this section. The duties involved in these jobs include providing public protection of lives and property, the authority and power to arrest, conducting criminal investigations, enforcing the criminal laws of the state of Washington, and the authority to carry a firearm as part of the job. Qualifications and training for these jobs include passage of a civil service examination and completion of the Washington criminal justice training commission basic training course or equivalent. Only those job classes specifically included in section 2(5) of this act by the legislature are public safety employees, and only for service earned after the effective date of the inclusion of that job class in section 2(5) of this act.

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

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

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

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

(4) "Employer" means the Washington state department of corrections, the Washington state parks and recreation commission, the Washington state gambling commission, the Washington state patrol, the Washington state liquor control board, county corrections departments, and city corrections departments not covered under chapter 41.28 RCW.

(5) "Member" means any employee employed by an employer on a full-time, fully compensated basis within the following job classes in effect as of January 1, 2004: City corrections officers, jailers, police support officers, custody officers, and bailiffs; county corrections officers, jailers, custody officers, and sheriffs corrections officers; county probation officers and probation counselors; state correctional officers, correctional sergeants, and

community corrections officers; liquor enforcement officers; park rangers; commercial vehicle enforcement officers; and gambling special agents.

(6)(a) "Compensation earnable" for members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States internal revenue code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(b) "Compensation earnable" for members also includes the following actual or imputed payments, which are not paid for personal services:

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

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

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

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

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by section 10 of this act;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(7) "Service" means periods of employment by a member on or after July 1, 2006, for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

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

(a) Service in any state elective position shall be deemed to be full-time service.

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

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

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

(10) "Membership service" means all service rendered as a member.

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

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

(13) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(14) "Average final compensation" means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under section 35 of this act.

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

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

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

(18) "Retirement allowance" means monthly payments to a retiree or beneficiary as provided in this chapter.

(19) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

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

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

(22) "Eligible position" means any permanent, full-time, fully compensated position included in subsection (5) of this section.

(23) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (22) of this section.

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

(25) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

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

(27) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

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

(29) "Plan" means the Washington public safety employees' retirement system plan 2.

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

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

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

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

(34) "Separation from service" occurs when a person has terminated all employment with an employer.

NEW SECTION. Sec. 3. A retirement system is hereby created for public safety employees of the Washington state department of corrections, the Washington state parks and recreation commission, the Washington state gambling commission, the Washington state patrol, the Washington state liquor control board, county corrections departments, and city corrections departments not covered under chapter 41.28 RCW. The administration and management of the retirement system, the responsibility for making effective the provisions of this chapter, and the authority to make all rules necessary therefor are hereby vested in the department. All rules shall be governed by chapter 34.05 RCW. This retirement system shall be known as the Washington public safety employees' retirement system.

NEW SECTION. Sec. 4. Membership in the retirement system shall consist of all regularly compensated public safety employees who are members as defined in section 2(5) of this act, with the following exceptions:

(1) Persons in ineligible positions;

(2)(a) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the option of applying for membership during such periods of employment: AND PROVIDED FURTHER, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish

the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: AND PROVIDED FURTHER, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other contribution made by the employee, with the exception that any contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(b) A member holding elective office who has elected to apply for membership pursuant to (a) of this subsection and who later wishes to be eligible for a retirement allowance shall have the option of ending his or her membership in the retirement system. A member wishing to end his or her membership under this subsection must file on a form supplied by the department a statement indicating that the member agrees to irrevocably abandon any claim for service for future periods served as an elected official. A member who receives more than fifteen thousand dollars per year in compensation for his or her elective service, adjusted annually for inflation by the director, is not eligible for the option provided by this subsection (2)(b);

(3) Retirement system retirees: PROVIDED, That following reemployment in an eligible position, a retiree may elect to prospectively become a member of the retirement system if otherwise eligible;

(4) Persons enrolled in state-approved apprenticeship programs, authorized under chapter 49.04 RCW, and who are employed by employers to earn hours to complete such apprenticeship programs, if the employee is a member of a union-sponsored retirement plan and is making contributions to such a retirement plan or if the employee is a member of a Taft-Hartley retirement plan;

(5) Persons rendering professional services to an employer on a fee, retainer, or contract basis or when the income from these services is less than fifty percent of the gross income received from the person's practice of a profession; and

(6) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within thirty days after employment in an eligible position.

NEW SECTION. Sec. 5. A new section is added to chapter 41.40 RCW to read as follows:

(1) An employee who was a member of the public employees' retirement system plan 2 or plan 3 before July 1, 2006, and on the effective date of this act is employed by an employer as defined in section 2(4) of this act and is an employee in a job class included in section 2(5) of this act, has the following options during the election period:

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

(b) Become a member of the public safety employees' retirement system plan 2. All members will be dual members as provided in chapter 41.54 RCW,

and public employees' retirement system service credit may not be transferred to the public safety employees' retirement system plan 2.

(2) The "election period" is the period between July 1, 2006, and September 30, 2006.

(3) During the election period, employees remain members of the public employees' retirement system plan 2 or plan 3 until they elect to join the public safety employees' retirement system. Members who elect to join the public safety employees' retirement system as described in subsection (1) of this section will have their membership begin prospectively from the date of their election.

(4) If after September 30, 2006, the member has not made an election to join the public safety employees' retirement system he or she will remain in the public employees' retirement system plan 2 or plan 3.

(5) An employee who was a member of the public employees' retirement system plan 1 on or before July 1, 2006, and on or after the effective date of this act is employed by an employer as defined in section 2(4) of this act as an employee in a job class included in section 2(5) of this act, shall remain a member of the public employees' retirement system plan 1.

(6) All new employees hired on or after July 1, 2006, who become employed by an employer as defined in section 2(4) of this act as an employee in a job class included in section 2(5) of this act will become members of the public safety employees' retirement system.

NEW SECTION. Sec. 6. Any person who has been employed in a nonelective position for at least nine months and who has made member contributions required under this chapter throughout such period, shall be deemed to have been in an eligible position during such period of employment.

NEW SECTION. Sec. 7. Within thirty days after his or her employment or his or her acceptance into membership each employee shall submit to the department a statement of his or her name and such other information as the department shall require. Compliance with this section is a condition of employment and failure by an employee to comply may result in separation from service.

NEW SECTION. Sec. 8. (1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours per calendar year in an eligible position as defined in RCW 41.32.010, 41.35.010, or 41.40.010, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under this chapter, he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual

shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with this chapter. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

NEW SECTION. Sec. 9. Those members subject to this chapter who became disabled in the line of duty and who received or are receiving benefits under Title 51 RCW or a similar federal workers' compensation program shall receive or continue to receive service credit subject to the following:

(1) No member may receive more than one month's service credit in a calendar month.

(2) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(3) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(4) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(5) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred. If contribution payments are made retroactively, interest shall be charged at the rate set by the director on both employee and employer contributions. Service credit shall not be granted until the employee contribution has been paid.

(6) The service and compensation credit shall not be granted for a period to exceed twelve consecutive months.

(7) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right.

NEW SECTION. Sec. 10. The deductions from the compensation of members, provided for in section 28 of this act, shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for in this chapter and receipt in full for his or her salary or compensation, and payment, less the deductions, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the person during the period covered by the payment, except as to benefits provided for under this chapter.

NEW SECTION. Sec. 11. (1) The director shall report to each employer the contribution rates required for the ensuing biennium or fiscal year, whichever is applicable.

(2) Beginning July 1, 2006, the amount to be collected as the employer's contribution shall be computed by applying the applicable rates established in chapter 41.45 RCW to the total compensation earnable of employer's members as shown on the current payrolls of the employer. Each employer shall compute

at the end of each month the amount due for that month and the same shall be paid as are its other obligations.

(3) In the event of failure, for any reason, of an employer other than a political subdivision of the state to have remitted amounts due for membership service of any of the employer's members rendered during a prior biennium, the director shall bill that employer for the employer's contribution together with the charges the director deems appropriate in accordance with RCW 41.50.120. This billing shall be paid by the employer as, and the same shall be, a proper charge against any moneys available or appropriated to the employer for payment of current biennial payrolls.

NEW SECTION. Sec. 12. (1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under this chapter, the various funds created by this chapter, and all moneys and investments and income thereof, are hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable.

(2) This section does not prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and which has been approved for deduction in accordance with rules that may be adopted by the state health care authority and/or the department. This section also does not prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more retired employees have authorized the deduction for payment to the same retirement association or organization.

(3) Subsection (1) of this section does not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

NEW SECTION. Sec. 13. A member shall not receive a disability retirement benefit under section 29 of this act if the disability is the result of criminal conduct by the member committed after July 1, 2006.

NEW SECTION. Sec. 14. (1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or the person or persons, trust, or organization the member has nominated by written designation duly executed and filed with the department. If the designated person or persons are not still living at the time of the member's death, the member's death benefit shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by

written designation, or if there is no surviving spouse, then to the member's legal representatives.

(2) The benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

NEW SECTION. Sec. 15. Any person who knowingly makes any false statements, or falsifies or permits to be falsified any record or records of this retirement system in any attempt to defraud the retirement system as a result of such an act, is guilty of a gross misdemeanor.

NEW SECTION. Sec. 16. Any person aggrieved by any decision of the department affecting his or her legal rights, duties, or privileges must, before he or she appeals to the courts, file with the director by mail or personally within sixty days from the day the decision was communicated to the person, a notice for a hearing before the director's designee. The notice of hearing shall set forth in full detail the grounds upon which the person considers the decision unjust or unlawful and shall include every issue to be considered by the department, and it must contain a detailed statement of facts upon which the person relies in support of the appeal. These persons shall be deemed to have waived all objections or irregularities concerning the matter on which the appeal is taken, other than those specifically set forth in the notice of hearing or appearing in the records of the retirement system.

NEW SECTION. Sec. 17. Following its receipt of a notice for hearing in accordance with section 16 of this act, a hearing shall be held by the director or an authorized representative, in the county of the residence of the claimant at a time and place designated by the director. This hearing shall be conducted and governed in all respects by chapter 34.05 RCW.

NEW SECTION. Sec. 18. Judicial review of any final decision and order by the director is governed by chapter 34.05 RCW.

NEW SECTION. Sec. 19. A bond of any kind shall not be required of a claimant appealing to the superior court, the court of appeals, or the supreme court from a finding of the department affecting the claimant's right to retirement or disability benefits.

NEW SECTION. Sec. 20. RCW 43.01.044 shall not result in any increase in retirement benefits. The rights extended to state officers and employees under RCW 43.01.044 are not intended to and shall not have any effect on retirement benefits under this chapter.

NEW SECTION. Sec. 21. (1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section.

NEW SECTION. Sec. 22. Beginning July 1, 2006, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

- (1) The original dollar amount of the retirement allowance;
- (2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";
- (3) The index for the calendar year prior to the date of determination, to be known as "index B"; and
- (4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

- (a) Produce a retirement allowance which is lower than the original retirement allowance;
- (b) Exceed three percent in the initial annual adjustment; or
- (c) Differ from the previous year's annual adjustment by more than three percent.

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

NEW SECTION. Sec. 23. (1) Upon retirement for service as prescribed in section 27 of this act or retirement for disability under section 29 of this act, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout the member's life. If the retiree dies before the total of the retirement allowance paid to the retiree equals the amount of the retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization the retiree nominated by written designation duly executed and filed with the department; or if there is no designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there is neither a designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, the portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3) The department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(4) The department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of section 27 of this act and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the age provided in section 27(1) of this act and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (3) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

NEW SECTION. Sec. 24. (1) Except as provided in section 8 of this act, a retiree shall not be eligible to receive the retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in section 2 of this act, or RCW 41.35.010, 41.40.010, or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030, except that a retiree who ends his or her membership in the retirement system pursuant to section 4(2)(b) of this act is not subject to this section if the retiree's only employment is as an elective official.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(3) The department shall adopt rules implementing this section.

NEW SECTION. Sec. 25. A member of the retirement system shall receive a retirement allowance equal to two percent of such member's average final compensation for each service credit year of service.

NEW SECTION. Sec. 26. (1) The director may pay a member eligible to receive a retirement allowance or the member's beneficiary, subject to subsection (5) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with section 25 of this act would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of the monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) A retiree or a beneficiary, subject to subsection (5) of this section, who is receiving a regular monthly benefit of less than fifty dollars may request, in writing, to convert from a monthly benefit to a lump sum payment. If the director approves the conversion, the calculation of the actuarial equivalent of the total estimated regular benefit will be computed based on the beneficiary's age at the time the benefit initially accrued. The lump sum payment will be reduced to reflect any payments received on or after the initial benefit accrual date.

(3) Persons covered under subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to rereading, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(4) If a member fails to meet the time limitations under subsection (3) of this section, reinstatement of all previous service will occur if the member pays the amount required under RCW 41.50.165(2). The amount, however, shall exclude

the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(5) Only persons entitled to or receiving a service retirement allowance under section 27 of this act or an earned disability allowance under section 29 of this act qualify for participation under this section.

(6) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from this system.

NEW SECTION. Sec. 27. (1) **NORMAL RETIREMENT.** Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to section 25 of this act.

(2) **UNREDUCED RETIREMENT.** Any member who has completed at least ten service credit years in the public safety employees' retirement system and has attained age sixty shall be eligible to retire and to receive a retirement allowance computed according to section 25 of this act.

(3) **EARLY RETIREMENT.** Any member who has completed at least twenty service credit years and has attained age fifty-three shall be eligible to retire and to receive a retirement allowance computed according to section 25 of this act, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty.

NEW SECTION. Sec. 28. The required contribution rates to the retirement system for both members and employers shall be established by the director from time to time as may be necessary upon the advice of the state actuary. The state actuary shall use the aggregate actuarial cost method to calculate contribution rates. The employer contribution rate calculated under this section shall be used only for the purpose of determining the amount of employer contributions to be deposited in the plan 2 fund from the total employer contributions collected under section 11 of this act.

Contribution rates required to fund the costs of the retirement system shall always be equal for members and employers, except under this section. Any adjustments in contribution rates required from time to time for future costs shall likewise be shared equally by the members and employers.

Any increase in the contribution rate required as the result of a failure of an employer to make any contribution required by this section shall be borne in full by the employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and the increase shall be announced at least thirty days prior to the effective date of the change.

A member's contributions required by this section shall be deducted from the member's compensation earnable each payroll period. The member's contribution and the employer's contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends.

NEW SECTION. Sec. 29. (1)(a) A member of the retirement system with at least ten years of service in the public safety employees' retirement system who becomes totally incapacitated for continued employment as an employee by an employer, as determined by the department, shall be eligible to receive an

allowance under sections 25 through 35 of this act. The member shall receive a monthly disability allowance computed as provided for in section 25 of this act and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty.

(b) A member of the retirement system with less than ten years of service who becomes totally incapacitated for continued employment by an employer, as determined by the department, shall be eligible to receive an allowance under sections 25 through 35 of this act. The member shall receive a monthly disability allowance computed as provided for in section 25 of this act and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

(2) Any member who receives an allowance under this section shall be subject to comprehensive medical examinations as required by the department. If these medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(3) If the recipient of a monthly allowance under this section dies before the total of the allowance payments equal the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization the recipient has nominated by written designation duly executed and filed with the director. If there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is no designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

NEW SECTION. Sec. 30. Any member or beneficiary eligible to receive a retirement allowance under section 27, 29, or 31 of this act shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under section 27 of this act shall accrue from the first day of the calendar month immediately following the member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for an allowance pursuant to section 27 of this act, shall accrue from the first day of the calendar month immediately following the qualification.

(3) Disability allowances paid to disabled members under section 29 of this act shall accrue from the first day of the calendar month immediately following the member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under section 31 of this act shall accrue from the first day of the calendar month immediately following the member's death.

NEW SECTION. Sec. 31. (1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to that member's credit in the retirement system at the time of the member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid

to the member's estate, or the person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there is no designated person or persons still living at the time of the member's death, the member's accumulated contributions standing to the member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact that spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in section 27 of this act, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under section 23 of this act and, except under subsection (4) of this section, if the member was not eligible for normal retirement at the date of death a further reduction as described in section 27 of this act; if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then the child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until the child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, the member's child or children under the age of majority shall receive an allowance, share and share alike, calculated under this section making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To a person or persons, estate, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) A member who is killed in the course of employment, as determined by the director of the department of labor and industries, is not subject to an actuarial reduction under section 27 of this act. The member's retirement allowance is computed under section 25 of this act.

NEW SECTION. Sec. 32. (1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under sections 25 through 35 of this act.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The compensation earnable reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (4) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. This credit may be obtained only if:

(a) The member makes both the employer and member contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner; or

(b) If not within five years of resumption of service but prior to retirement, pay the amount required under RCW 41.50.165(2).

The contributions required under (a) of this subsection shall be based on the average of the member's compensation earnable at both the time the authorized leave of absence was granted and the time the member resumed employment.

(4) A member who leaves the employ of an employer to enter the armed forces of the United States shall be entitled to retirement system service credit for up to five years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(a) The member qualifies for service credit under this subsection if:

(i) Within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces; and

(ii) The member makes the employee contributions required under section 28 of this act within five years of resumption of service or prior to retirement, whichever comes sooner; or

(iii) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2).

(b) Upon receipt of member contributions under (a)(ii) of this subsection, the department shall establish the member's service credit and shall bill the employer for its contribution required under section 28 of this act for the period of military service, plus interest as determined by the department.

(c) The contributions required under (a)(ii) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that

cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

NEW SECTION. Sec. 33. A member who separates or has separated after having completed at least five years of service may remain a member during the period of the member's absence from service for the exclusive purpose only of receiving a retirement allowance under section 27 of this act if the member maintains the member's accumulated contributions intact.

NEW SECTION. Sec. 34. A member who ceases to be an employee of an employer except by service or disability retirement may request a refund of the member's accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all rights to benefits under sections 25 through 35 of this act.

NEW SECTION. Sec. 35. (1) A member, who had left service and withdrawn the member's accumulated contributions, shall receive service credit for prior service if the member restores all withdrawn accumulated contributions together with interest since the time of withdrawal as determined by the department.

The restoration of funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first.

(2) If a member fails to meet the time limitations of subsection (1) of this section, the member may receive service credit destroyed by the withdrawn contributions if the amount required under RCW 41.50.165(2) is paid.

Sec. 36. RCW 41.45.010 and 2002 c 26 s 3 are each amended to read as follows:

It is the intent of the legislature to provide a dependable and systematic process for funding the benefits provided to members and retirees of the public employees' retirement system, chapter 41.40 RCW; the teachers' retirement system, chapter 41.32 RCW; the law enforcement officers' and fire fighters' retirement systems, chapter 41.26 RCW; the school employees' retirement system, chapter 41.35 RCW; the public safety employees' retirement system, chapter 41.— RCW (sections 1 through 4 and 6 through 35 of this act); and the Washington state patrol retirement system, chapter 43.43 RCW.

The legislature finds that the funding status of the state retirement systems has improved dramatically since 1989. Because of the big reduction in unfunded pension liabilities, it is now prudent to adjust the long-term economic assumptions that are used in the actuarial studies conducted by the state actuary. The legislature finds that it is reasonable to increase the salary growth assumption in light of Initiative Measure No. 732, to increase the investment return assumption in light of the asset allocation policies and historical returns of the state investment board, and to reestablish June 30, 2024, as the target date to achieve full funding of all liabilities in the public employees' retirement system

plan 1, the teachers' retirement system plan 1, and the law enforcement officers' and fire fighters' retirement system plan 1.

The funding process established by this chapter is intended to achieve the following goals:

(1) To (~~continue to~~) fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, the school employees' retirement system plans 2 and 3, the public safety employees' retirement system plan 2, and the law enforcement officers' and fire fighters' retirement system plan 2 as provided by law;

(2) To fully amortize the total costs of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and the law enforcement officers' and fire fighters' retirement system plan 1, not later than June 30, 2024;

(3) To establish predictable long-term employer contribution rates which will remain a relatively constant proportion of the future state budgets; and

(4) To fund, to the extent feasible, benefit increases for plan 1 members and all benefits for plan 2 and 3 members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service.

Sec. 37. RCW 41.45.020 and 2003 c 295 s 8 are each amended to read as follows:

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

(1) "Council" means the pension funding council created in RCW 41.45.100.

(2) "Department" means the department of retirement systems.

(3) "Law enforcement officers' and fire fighters' retirement system plan 1" and "law enforcement officers' and fire fighters' retirement system plan 2" means the benefits and funding provisions under chapter 41.26 RCW.

(4) "Public employees' retirement system plan 1," "public employees' retirement system plan 2," and "public employees' retirement system plan 3" mean the benefits and funding provisions under chapter 41.40 RCW.

(5) "Teachers' retirement system plan 1," "teachers' retirement system plan 2," and "teachers' retirement system plan 3" mean the benefits and funding provisions under chapter 41.32 RCW.

(6) "School employees' retirement system plan 2" and "school employees' retirement system plan 3" mean the benefits and funding provisions under chapter 41.35 RCW.

(7) "Washington state patrol retirement system" means the retirement benefits provided under chapter 43.43 RCW.

(8) "Unfunded liability" means the unfunded actuarial accrued liability of a retirement system.

(9) "Actuary" or "state actuary" means the state actuary employed under chapter 44.44 RCW.

(10) "State retirement systems" means the retirement systems listed in RCW 41.50.030.

(11) "Classified employee" means a member of the Washington school employees' retirement system plan 2 or plan 3 as defined in RCW 41.35.010.

(12) "Teacher" means a member of the teachers' retirement system as defined in RCW 41.32.010(15).

(13) "Select committee" means the select committee on pension policy created in RCW 41.04.276.

(14) "Public safety employees' retirement system plan 2" means the benefits and funding provisions established under chapter 41.— RCW (sections 1 through 4 and 6 through 35 of this act).

Sec. 38. RCW 41.45.050 and 2002 c 26 s 5 are each amended to read as follows:

(1) Employers of members of the public employees' retirement system, the teachers' retirement system, the school employees' retirement system, the public safety employees' retirement system, and the Washington state patrol retirement system shall make contributions to those systems based on the rates established in RCW 41.45.060(~~(, 41.45.053,)~~) and 41.45.070.

(2) The state shall make contributions to the law enforcement officers' and fire fighters' retirement system plan 2 based on the rates established in RCW 41.45.060(~~(, 41.45.053,)~~) and 41.45.070. The state treasurer shall transfer the required contributions each month on the basis of salary data provided by the department.

(3) The department shall bill employers, and the state shall make contributions to the law enforcement officers' and fire fighters' retirement system plan 2, using the combined rates established in RCW 41.45.060(~~(, 41.45.053,)~~) and 41.45.070 regardless of the level of appropriation provided in the biennial budget. Any member of an affected retirement system may, by mandamus or other appropriate proceeding, require the transfer and payment of funds as directed in this section.

(4) The contributions received for the public employees' retirement system shall be allocated between the public employees' retirement system plan 1 fund and the public employees' retirement system combined plan 2 and plan 3 fund as follows: The contributions necessary to fully fund the public employees' retirement system combined plan 2 and plan 3 employer contribution shall first be deposited in the public employees' retirement system combined plan 2 and plan 3 fund. All remaining public employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan 1 fund.

(5) The contributions received for the teachers' retirement system shall be allocated between the plan 1 fund and the combined plan 2 and plan 3 fund as follows: The contributions necessary to fully fund the combined plan 2 and plan 3 employer contribution shall first be deposited in the combined plan 2 and plan 3 fund. All remaining teachers' retirement system employer contributions shall be deposited in the plan 1 fund.

(6) The contributions received for the school employees' retirement system shall be allocated between the public employees' retirement system plan 1 fund and the school employees' retirement system combined plan 2 and plan 3 fund as follows: The contributions necessary to fully fund the combined plan 2 and plan 3 employer contribution shall first be deposited in the combined plan 2 and plan 3 fund. All remaining school employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan 1 fund.

(7) The contributions received for the law enforcement officers' and fire fighters' retirement system plan 2 shall be deposited in the law enforcement officers' and fire fighters' retirement system plan 2 fund.

(8) The contributions received for the public safety employees' retirement system shall be allocated between the public employees' retirement system plan 1 fund and the public safety employees' retirement system plan 2 fund as follows: The contributions necessary to fully fund the plan 2 employer contribution shall first be deposited in the plan 2 fund. All remaining public safety employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan 1 fund.

Sec. 39. RCW 41.45.060 and 2003 c 294 s 10 and 2003 c 92 s 3 are each reenacted and amended to read as follows:

(1) The state actuary shall provide actuarial valuation results based on the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted by the council under RCW 41.45.030 or 41.45.035.

(2) Not later than September 30, 2002, and every two years thereafter, consistent with the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted under RCW 41.45.030 or 41.45.035, the council shall adopt and may make changes to:

(a) A basic state contribution rate for the law enforcement officers' and fire fighters' retirement system plan 1;

(b) Basic employer contribution rates for the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system to be used in the ensuing biennial period; and

(c) A basic employer contribution rate for the school employees' retirement system and the public safety employees' retirement system for funding both ~~((that))~~ those systems and the public employees' retirement system plan 1.

The contribution rates adopted by the council shall be subject to revision by the legislature.

(3) The employer and state contribution rates adopted by the council shall be the level percentages of pay that are needed:

(a) To fully amortize the total costs of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and the law enforcement officers' and fire fighters' retirement system plan 1 not later than June 30, 2024; and

(b) To ~~((also continue to))~~ fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, the public safety employees' retirement system plan 2, and the school employees' retirement system plans 2 and 3 in accordance with RCW 41.45.061, 41.45.067, and this section.

(4) The aggregate actuarial cost method shall be used to calculate a combined plan 2 and 3 employer contribution rate and a Washington state patrol retirement system contribution rate.

(5) The council shall immediately notify the directors of the office of financial management and department of retirement systems of the state and employer contribution rates adopted. The rates shall be effective for the ensuing biennial period, subject to any legislative modifications.

(6) ~~((The director of the department of retirement systems shall collect the rates established in RCW 41.45.053 through June 30, 2003. Thereafter,))~~ The

director shall collect those rates adopted by the council. The rates established in RCW (~~41.45.053~~) 41.45.054, or by the council, shall be subject to revision by the (~~council~~) legislature.

Sec. 40. RCW 41.45.061 and 2001 2nd sp.s. c 11 s 13, 2001 2nd sp.s. c 11 s 12, and 2001 c 180 s 1 are each reenacted and amended to read as follows:

(1) The required contribution rate for members of the plan 2 teachers' retirement system shall be fixed at the rates in effect on July 1, 1996, subject to the following:

(a) Beginning September 1, 1997, except as provided in (b) of this subsection, the employee contribution rate shall not exceed the employer plan 2 and 3 rates adopted under RCW 41.45.060, (~~41.45.053~~) 41.45.054, and 41.45.070 for the teachers' retirement system;

(b) In addition, the employee contribution rate for plan 2 shall be increased by fifty percent of the contribution rate increase caused by any plan 2 benefit increase passed after July 1, 1996;

(c) In addition, the employee contribution rate for plan 2 shall not be increased as a result of any distributions pursuant to section 309, chapter 341, Laws of 1998 and RCW 41.31A.020.

(2) The required contribution rate for members of the school employees' retirement system plan 2 shall equal the school employees' retirement system employer plan 2 and 3 contribution rate adopted under RCW 41.45.060, (~~41.45.053~~) 41.45.054, and 41.45.070, except as provided in subsection (3) of this section.

(3) The member contribution rate for the school employees' retirement system plan 2 shall be increased by fifty percent of the contribution rate increase caused by any plan 2 benefit increase passed after September 1, 2000.

(4) The required contribution rate for members of the public employees' retirement system plan 2 shall be set at the same rate as the employer combined plan 2 and plan 3 rate.

(5) The required contribution rate for members of the law enforcement officers' and fire fighters' retirement system plan 2 shall be set at fifty percent of the cost of the retirement system.

(6) The employee contribution rates for plan 2 under subsections (3) and (4) of this section shall not include any increase as a result of any distributions pursuant to RCW 41.31A.020 and 41.31A.030.

(7) The required plan 2 and 3 contribution rates for employers shall be adopted in the manner described in RCW 41.45.060, (~~41.45.053~~) 41.45.054, and 41.45.070.

(8) The required contribution rate for members of the public safety employees' retirement system plan 2 shall be set at fifty percent of the cost of the retirement system.

Sec. 41. RCW 41.45.070 and 2003 1st sp.s. c 11 s 3 and 2003 c 92 s 5 are each reenacted and amended to read as follows:

(1) In addition to the basic employer contribution rate established in RCW 41.45.060 or 41.45.054, the department shall also charge employers of public employees' retirement system, teachers' retirement system, school employees' retirement system, public safety employees' retirement system, or Washington state patrol retirement system members an additional supplemental rate to pay

for the cost of additional benefits, if any, granted to members of those systems. Except as provided in subsections (6) and (7) of this section, the supplemental contribution rates required by this section shall be calculated by the state actuary and shall be charged regardless of language to the contrary contained in the statute which authorizes additional benefits.

(2) In addition to the basic member, employer, and state contribution rate established in RCW 41.45.0604 for the law enforcement officers' and fire fighters' retirement system plan 2, the department shall also establish supplemental rates to pay for the cost of additional benefits, if any, granted to members of the law enforcement officers' and fire fighters' retirement system plan 2. Except as provided in subsection (6) of this section, these supplemental rates shall be calculated by the actuary retained by the law enforcement officers' and fire fighters' board and the state actuary through the process provided in RCW 41.26.720(1)(a) and the state treasurer shall transfer the additional required contributions regardless of language to the contrary contained in the statute which authorizes the additional benefits.

(3) The supplemental rate charged under this section to fund benefit increases provided to active members of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and Washington state patrol retirement system, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit not later than June 30, 2024.

(4) The supplemental rate charged under this section to fund benefit increases provided to active and retired members of the public employees' retirement system plan 2 and plan 3, the teachers' retirement system plan 2 and plan 3, the public safety employees' retirement system plan 2, or the school employees' retirement system plan 2 and plan 3 shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit, as calculated under RCW 41.45.060, 41.45.061, or 41.45.067.

(5) The supplemental rate charged under this section to fund postretirement adjustments which are provided on a nonautomatic basis to current retirees shall be calculated as the percentage of pay needed to fund the adjustments as they are paid to the retirees. The supplemental rate charged under this section to fund automatic postretirement adjustments for active or retired members of the public employees' retirement system plan 1 and the teachers' retirement system plan 1 shall be calculated as the level percentage of pay needed to fund the cost of the automatic adjustments not later than June 30, 2024.

(6) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 340, Laws of 1998.

(7) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 41.31A RCW; section 309, chapter 341, Laws of 1998; or section 701, chapter 341, Laws of 1998.

Sec. 42. RCW 41.50.030 and 1998 c 341 s 501 are each amended to read as follows:

(1) As soon as possible but not more than one hundred and eighty days after March 19, 1976, there is transferred to the department of retirement systems, except as otherwise provided in this chapter, all powers, duties, and functions of:

- (a) The Washington public employees' retirement system;
- (b) The Washington state teachers' retirement system;

(c) The Washington law enforcement officers' and fire fighters' retirement system;

(d) The Washington state patrol retirement system;

(e) The Washington judicial retirement system; and

(f) The state treasurer with respect to the administration of the judges' retirement fund imposed pursuant to chapter 2.12 RCW.

(2) On July 1, 1996, there is transferred to the department all powers, duties, and functions of the deferred compensation committee.

(3) The department shall administer chapter 41.34 RCW.

(4) The department shall administer the Washington school employees' retirement system created under chapter 41.35 RCW.

(5) The department shall administer the Washington public safety employees' retirement system created under chapter 41.— RCW (sections 1 through 4 and 6 through 35 of this act).

Sec. 43. RCW 41.50.060 and 1998 c 341 s 502 are each amended to read as follows:

The director may delegate the performance of such powers, duties, and functions, other than those relating to rule making, to employees of the department, but the director shall remain and be responsible for the official acts of the employees of the department.

The director shall be responsible for the public employees' retirement system, the teachers' retirement system, the school employees' retirement system, the judicial retirement system, the law enforcement officers' and fire fighters' retirement system, the public safety employees' retirement system, and the Washington state patrol retirement system. The director shall also be responsible for the deferred compensation program.

Sec. 44. RCW 41.50.075 and 2000 c 247 s 601 are each amended to read as follows:

(1) Two funds are hereby created and established in the state treasury to be known as the Washington law enforcement officers' and fire fighters' system plan 1 retirement fund, and the Washington law enforcement officers' and fire fighters' system plan 2 retirement fund which shall consist of all moneys paid into them in accordance with the provisions of this chapter and chapter 41.26 RCW, whether such moneys take the form of cash, securities, or other assets. The plan 1 fund shall consist of all moneys paid to finance the benefits provided to members of the law enforcement officers' and fire fighters' retirement system plan 1, and the plan 2 fund shall consist of all moneys paid to finance the benefits provided to members of the law enforcement officers' and fire fighters' retirement system plan 2.

(2) All of the assets of the Washington state teachers' retirement system shall be credited according to the purposes for which they are held, to two funds to be maintained in the state treasury, namely, the teachers' retirement system plan 1 fund and the teachers' retirement system combined plan 2 and 3 fund. The plan 1 fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan 1, and the combined plan 2 and 3 fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan 2 and 3.

(3) There is hereby established in the state treasury two separate funds, namely the public employees' retirement system plan 1 fund and the public employees' retirement system combined plan 2 and plan 3 fund. The plan 1 fund shall consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plan 1, and the combined plan 2 and plan 3 fund shall consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plans 2 and 3.

(4) There is hereby established in the state treasury the school employees' retirement system combined plan 2 and 3 fund. The combined plan 2 and 3 fund shall consist of all moneys paid to finance the benefits provided to members of the school employees' retirement system plan 2 and plan 3.

(5) There is hereby established in the state treasury the public safety employees' retirement system plan 2 fund. The plan 2 fund shall consist of all moneys paid to finance the benefits provided to members of the public safety employees' retirement system plan 2.

Sec. 45. RCW 41.50.080 and 1998 c 341 s 504 are each amended to read as follows:

The state investment board shall provide for the investment of all funds of the Washington public employees' retirement system, the teachers' retirement system, the school employees' retirement system, the Washington law enforcement officers' and fire fighters' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, the Washington public safety employees' retirement system, and the judges' retirement fund, pursuant to RCW 43.84.150, and may sell or exchange investments acquired in the exercise of that authority.

Sec. 46. RCW 41.50.110 and 2003 1st sp.s. c 25 s 914 are each amended to read as follows:

(1) Except as provided by RCW 41.50.255 and subsection (6) of this section, all expenses of the administration of the department, the expenses of administration of the retirement systems, and the expenses of the administration of the office of the state actuary created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, 41.34, 41.35, 41.— (sections 1 through 4 and 6 through 35 of this act), 43.43, and 44.44 RCW shall be paid from the department of retirement systems expense fund.

(2) In order to reimburse the department of retirement systems expense fund on an equitable basis the department shall ascertain and report to each employer, as defined in RCW 41.26.030, 41.32.010, 41.35.010, section 2 of this act, or 41.40.010, the sum necessary to defray its proportional share of the entire expense of the administration of the retirement system that the employer participates in during the ensuing biennium or fiscal year whichever may be required. Such sum is to be computed in an amount directly proportional to the estimated entire expense of the administration as the ratio of monthly salaries of the employer's members bears to the total salaries of all members in the entire system. It shall then be the duty of all such employers to include in their budgets or otherwise provide the amounts so required.

(3) The department shall compute and bill each employer, as defined in RCW 41.26.030, 41.32.010, 41.35.010, section 2 of this act, or 41.40.010, at the end of each month for the amount due for that month to the department of

retirement systems expense fund and the same shall be paid as are its other obligations. Such computation as to each employer shall be made on a percentage rate of salary established by the department. However, the department may at its discretion establish a system of billing based upon calendar year quarters in which event the said billing shall be at the end of each such quarter.

(4) The director may adjust the expense fund contribution rate for each system at any time when necessary to reflect unanticipated costs or savings in administering the department.

(5) An employer who fails to submit timely and accurate reports to the department may be assessed an additional fee related to the increased costs incurred by the department in processing the deficient reports. Fees paid under this subsection shall be deposited in the retirement system expense fund.

(a) Every six months the department shall determine the amount of an employer's fee by reviewing the timeliness and accuracy of the reports submitted by the employer in the preceding six months. If those reports were not both timely and accurate the department may prospectively assess an additional fee under this subsection.

(b) An additional fee assessed by the department under this subsection shall not exceed fifty percent of the standard fee.

(c) The department shall adopt rules implementing this section.

(6) Expenses other than those under RCW 41.34.060(3) shall be paid pursuant to subsection (1) of this section.

(7) During the 2003-2005 fiscal biennium, the legislature may transfer from the department of retirement systems' expense fund to the state general fund such amounts as reflect the excess fund balance of the fund.

Sec. 47. RCW 41.50.150 and 1998 c 341 s 509 are each amended to read as follows:

(1) The employer of any employee whose retirement benefits are based in part on excess compensation, as defined in this section, shall, upon receipt of a billing from the department, pay into the appropriate retirement system the present value at the time of the employee's retirement of the total estimated cost of all present and future benefits from the retirement system attributable to the excess compensation. The state actuary shall determine the estimated cost using the same method and procedure as is used in preparing fiscal note costs for the legislature. However, the director may in the director's discretion decline to bill the employer if the amount due is less than fifty dollars. Accounts unsettled within thirty days of the receipt of the billing shall be assessed an interest penalty of one percent of the amount due for each month or fraction thereof beyond the original thirty-day period.

(2) "Excess compensation," as used in this section, includes the following payments, if used in the calculation of the employee's retirement allowance:

(a) A cash out of unused annual leave in excess of two hundred forty hours of such leave. "Cash out" for purposes of this subsection means:

(i) Any payment in lieu of an accrual of annual leave; or

(ii) Any payment added to salary or wages, concurrent with a reduction of annual leave;

(b) A cash out of any other form of leave;

(c) A payment for, or in lieu of, any personal expense or transportation allowance to the extent that payment qualifies as reportable compensation in the member's retirement system;

(d) The portion of any payment, including overtime payments, that exceeds twice the regular daily or hourly rate of pay; and

(e) Any termination or severance payment.

(3) This section applies to the retirement systems listed in RCW 41.50.030 and to retirements occurring on or after March 15, 1984. Nothing in this section is intended to amend or determine the meaning of any definition in chapter 2.10, 2.12, 41.26, 41.32, 41.40, 41.35, 41.—(sections 1 through 4 and 6 through 35 of this act), or 43.43 RCW or to determine in any manner what payments are includable in the calculation of a retirement allowance under such chapters.

(4) An employer is not relieved of liability under this section because of the death of any person either before or after the billing from the department.

Sec. 48. RCW 41.50.152 and 1998 c 341 s 510 are each amended to read as follows:

(1) Except as limited by subsection (3) of this section, the governing body of an employer under chapter 41.32, 41.35, 41.—(sections 1 through 4 and 6 through 35 of this act), or 41.40 RCW shall comply with the provisions of subsection (2) of this section prior to executing a contract or collective bargaining agreement with members under chapter 41.32, 41.35, 41.—(sections 1 through 4 and 6 through 35 of this act), or 41.40 RCW which provides for:

(a) A cash out of unused annual leave in excess of two hundred forty hours of such leave. "Cash out" for purposes of this subsection means any payment in lieu of an accrual of annual leave or any payment added to regular salary, concurrent with a reduction of annual leave;

(b) A cash out of any other form of leave;

(c) A payment for, or in lieu of, any personal expense or transportation allowance;

(d) The portion of any payment, including overtime payments, that exceeds twice the regular rate of pay; or

(e) Any other termination or severance payment.

(2) Any governing body entering into a contract that includes a compensation provision listed in subsection (1) of this section shall do so only after public notice in compliance with the open public meetings act, chapter 42.30 RCW. This notification requirement may be accomplished as part of the approval process for adopting a contract in whole, and does not require separate or additional open public meetings. At the public meeting, full disclosure shall be made of the nature of the proposed compensation provision, and the employer's estimate of the excess compensation billings under RCW 41.50.150 that the employing entity would have to pay as a result of the proposed compensation provision. The employer shall notify the department of its compliance with this section at the time the department bills the employer under RCW 41.50.150 for the pension impact of compensation provisions listed in subsection (1) of this section that are adopted after July 23, 1995.

(3) The requirements of subsection (2) of this section shall not apply to the adoption of a compensation provision listed in subsection (1) of this section if the compensation would not be includable in calculating benefits under chapter

41.32, 41.35, 41.— (sections 1 through 4 and 6 through 35 of this act), or 41.40 RCW for the employees covered by the compensation provision.

Sec. 49. RCW 41.50.255 and 1998 c 341 s 511 are each amended to read as follows:

The director is authorized to pay from the interest earnings of the trust funds of the public employees' retirement system, the teachers' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, the judges' retirement system, the school ((~~district~~)) employees' retirement system, the public safety employees' retirement system, or the law enforcement officers' and fire fighters' retirement system lawful obligations of the appropriate system for legal expenses and medical expenses which expenses are primarily incurred for the purpose of protecting the appropriate trust fund or are incurred in compliance with statutes governing such funds.

The term "legal expense" includes, but is not limited to, legal services provided through the legal services revolving fund, fees for expert witnesses, travel expenses, fees for court reporters, cost of transcript preparation, and reproduction of documents.

The term "medical costs" includes, but is not limited to, expenses for the medical examination or reexamination of members or retirees, the costs of preparation of medical reports, and fees charged by medical professionals for attendance at discovery proceedings or hearings.

The director may also pay from the interest earnings of the trust funds specified in this section costs incurred in investigating fraud and collecting overpayments, including expenses incurred to review and investigate cases of possible fraud against the trust funds and collection agency fees and other costs incurred in recovering overpayments. Recovered funds must be returned to the appropriate trust funds.

Sec. 50. RCW 41.50.500 and 2000 c 247 s 603 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.50.500 through 41.50.650, 41.50.670 through 41.50.720, and 26.09.138.

(1) "Benefits" means periodic retirement payments or a withdrawal of accumulated contributions.

(2) "Disposable benefits" means that part of the benefits of an individual remaining after the deduction from those benefits of any amount required by law to be withheld. The term "required by law to be withheld" does not include any deduction elective to the member.

(3) "Dissolution order" means any judgment, decree, or order of spousal maintenance, property division, or court-approved property settlement incident to a decree of divorce, dissolution, invalidity, or legal separation issued by the superior court of the state of Washington or a judgment, decree, or other order of spousal support issued by a court of competent jurisdiction in another state or country, that has been registered or otherwise made enforceable in this state.

(4) "Mandatory benefits assignment order" means an order issued to the department of retirement systems pursuant to RCW 41.50.570 to withhold and deliver benefits payable to an obligor under chapter 2.10, 2.12, 41.26, 41.32,

41.40, 41.35, 41.— (sections 1 through 4 and 6 through 35 of this act), or 43.43 RCW.

(5) "Obligee" means an ex spouse or spouse to whom a duty of spousal maintenance or property division obligation is owed.

(6) "Obligor" means the spouse or ex spouse owing a duty of spousal maintenance or a property division obligation.

(7) "Periodic retirement payments" means periodic payments of retirement allowances, including but not limited to service retirement allowances, disability retirement allowances, and survivors' allowances. The term does not include a withdrawal of accumulated contributions.

(8) "Property division obligation" means any outstanding court-ordered property division or court-approved property settlement obligation incident to a decree of divorce, dissolution, or legal separation.

(9) "Standard allowance" means a benefit payment option selected under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a), 41.40.188(1)(a), 41.40.660(1), 41.40.845(1)(a), section 23 of this act, or 41.35.220 that ceases upon the death of the retiree. Standard allowance also means the benefit allowance provided under RCW 2.10.110, 2.10.130, 43.43.260, 41.26.100, 41.26.130(1)(a), or chapter 2.12 RCW. Standard allowance also means the maximum retirement allowance available under RCW 41.32.530(1) following member withdrawal of accumulated contributions, if any.

(10) "Withdrawal of accumulated contributions" means a lump sum payment to a retirement system member of all or a part of the member's accumulated contributions, including accrued interest, at the request of the member including any lump sum amount paid upon the death of the member.

Sec. 51. RCW 41.50.670 and 2002 c 158 s 5 are each amended to read as follows:

(1) Nothing in this chapter regarding mandatory assignment of benefits to enforce a spousal maintenance obligation shall abridge the right of an obligee to direct payments of retirement benefits to satisfy a property division obligation ordered pursuant to a court decree of dissolution or legal separation or any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation as provided in RCW 2.10.180, 2.12.090, (~~41.04.310, 41.04.320, 41.04.330,~~) 41.26.053, 41.26.162, 41.32.052, 41.35.100, 41.34.070(4), 41.40.052, 43.43.310, section 12 of this act, or 26.09.138, as those statutes existed before July 1, 1987, and as those statutes exist on and after July 28, 1991. The department shall pay benefits under this chapter in a lump sum or as a portion of periodic retirement payments as expressly provided by the dissolution order. A dissolution order may not order the department to pay a periodic retirement payment or lump sum unless that payment is specifically authorized under the provisions of chapter 2.10, 2.12, 41.26, 41.32, 41.35, 41.34, 41.40, 41.— (sections 1 through 4 and 6 through 35 of this act), or 43.43 RCW, as applicable.

(2) The department shall pay directly to an obligee the amount of periodic retirement payments or lump sum payment, as appropriate, specified in the dissolution order if the dissolution order filed with the department pursuant to subsection (1) of this section includes a provision that states in the following form:

If (the obligor) receives periodic retirement payments as defined in RCW 41.50.500, the department of retirement systems shall pay to (the obligee) dollars from such payments or . . . percent of such payments. If the obligor's debt is expressed as a percentage of his or her periodic retirement payment and the obligee does not have a survivorship interest in the obligor's benefit, the amount received by the obligee shall be the percentage of the periodic retirement payment that the obligor would have received had he or she selected a standard allowance.

If (the obligor) requests or has requested a withdrawal of accumulated contributions as defined in RCW 41.50.500, or becomes eligible for a lump sum death benefit, the department of retirement systems shall pay to (the obligee) dollars plus interest at the rate paid by the department of retirement systems on member contributions. Such interest to accrue from the date of this order's entry with the court of record.

(3) This section does not require a member to select a standard allowance upon retirement nor does it require the department to recalculate the amount of a retiree's periodic retirement payment based on a change in survivor option.

(4) A court order under this section may not order the department to pay more than seventy-five percent of an obligor's periodic retirement payment to an obligee.

(5) Persons whose court decrees were entered between July 1, 1987, and July 28, 1991, shall also be entitled to receive direct payments of retirement benefits to satisfy court-ordered property divisions if the dissolution orders comply or are modified to comply with this section and RCW 41.50.680 through 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, 41.26.053, 41.32.052, 41.35.100, 41.34.070, 41.40.052, 43.43.310, section 12 of this act, and 26.09.138.

(6) The obligee must file a copy of the dissolution order with the department within ninety days of that order's entry with the court of record.

(7) A division of benefits pursuant to a dissolution order under this section shall be based upon the obligor's gross benefit prior to any deductions. If the department is required to withhold a portion of the member's benefit pursuant to 26 U.S.C. Sec. 3402 and the sum of that amount plus the amount owed to the obligee exceeds the total benefit, the department shall satisfy the withholding requirements under 26 U.S.C. Sec. 3402 and then pay the remainder to the obligee. The provisions of this subsection do not apply to amounts withheld pursuant to 26 U.S.C. Sec. 3402(i).

Sec. 52. RCW 41.50.790 and 2002 c 26 s 8 are each amended to read as follows:

(1) The department shall designate an obligee as a survivor beneficiary of a member under RCW 2.10.146, 41.26.460, 41.32.530, 41.32.785, 41.32.851, 41.35.220, 41.40.188, 41.40.660, section 23 of this act, or 41.40.845 if the department has been served by registered or certified mail with a dissolution order as defined in RCW 41.50.500 at least thirty days prior to the member's retirement. The department's duty to comply with the dissolution order arises only if the order contains a provision that states in substantially the following form:

When (the obligor) applies for retirement the department shall designate (the obligee) as survivor beneficiary with a survivor benefit.

The survivor benefit designated in the dissolution order must be consistent with the survivor benefit options authorized by statute or administrative rule.

(2) The obligee's entitlement to a survivor benefit pursuant to a dissolution order filed with the department in compliance with subsection (1) of this section shall cease upon the death of the obligee.

(3)(a) A subsequent dissolution order may order the department to divide a survivor benefit between a survivor beneficiary and an alternate payee. In order to divide a survivor benefit between more than one payee, the dissolution order must:

(i) Be ordered by a court of competent jurisdiction following notice to the survivor beneficiary;

(ii) Contain a provision that complies with subsection (1) of this section designating the survivor beneficiary;

(iii) Contain a provision clearly identifying the alternate payee or payees; and

(iv) Specify the proportional division of the benefit between the survivor beneficiary and the alternate payee or payees.

(b) The department will calculate actuarial adjustment for the court-ordered survivor benefit based upon the life of the survivor beneficiary.

(c) If the survivor beneficiary dies, the department shall terminate the benefit. If the alternate payee predeceases the survivor beneficiary, all entitlement of the alternate payee to a benefit ceases and the entire benefit will revert to the survivor beneficiary.

(d) For purposes of this section, "survivor beneficiary" means:

(i) The obligee designated in the provision of dissolution filed in compliance with subsection (1) of this section; or

(ii) In the event of more than one dissolution order, the obligee named in the first decree of dissolution received by the department.

(e) For purposes of this section, "alternate payee" means a person, other than the survivor beneficiary, who is granted a percentage of a survivor benefit pursuant to a dissolution order.

(4) The department shall under no circumstances be held liable for not designating an obligee as a survivor beneficiary under subsection (1) of this section if the dissolution order or amendment thereto is not served on the department by registered or certified mail at least thirty days prior to the member's retirement.

(5) If a dissolution order directing designation of a survivor beneficiary has been previously filed with the department in compliance with this section, no additional obligation shall arise on the part of the department upon filing of a subsequent dissolution order unless the subsequent dissolution order:

(a) Specifically amends or supersedes the dissolution order already on file with the department; and

(b) Is filed with the department by registered or certified mail at least thirty days prior to the member's retirement.

(6) The department shall designate a court-ordered survivor beneficiary pursuant to a dissolution order filed with the department before June 6, 1996, only if the order:

- (a) Specifically directs the member or department to make such selection;
- (b) Specifies the survivor option to be selected; and
- (c) The member retires after June 6, 1996.

Sec. 53. RCW 41.40.010 and 2003 c 412 s 4 are each amended to read as follows:

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

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

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

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

(4)(a) "Employer" for plan 1 members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan 2 and plan 3 members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August 31, 2000, school districts and educational service districts will no longer be employers for the public employees' retirement system plan 2.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023. RCW 41.26.045 does not prohibit a person otherwise eligible for membership in the retirement system from establishing such membership effective when he or she first entered an eligible position.

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

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

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

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

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

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

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

(8)(a) "Compensation earnable" for plan 1 members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer.

(i) "Compensation earnable" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

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

(B) If a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee;

(C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(D) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(E) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(F) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(ii) "Compensation earnable" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Compensation earnable" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Compensation earnable" for plan 2 and plan 3 members also includes the following actual or imputed payments, which are not paid for personal services:

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

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

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

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

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(9)(a) "Service" for plan 1 members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this

chapter. Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits. Time spent in standby status, whether compensated or not, is not service.

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system.

(ii) An individual shall receive no more than a total of twelve service credit months of service during any calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(iii) A school district employee may count up to forty-five days of sick leave as creditable service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than twenty-two days equals one-quarter service credit month;

(B) Twenty-two days equals one service credit month;

(C) More than twenty-two days but less than forty-five days equals one and one-quarter service credit month.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

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

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

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

(iii) Up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;
(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

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

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

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

(13) "Membership service" means:

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

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system for which member and employer contributions, plus interest as required by RCW 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

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

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

(14)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

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

(16) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including

any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(17)(a) "Average final compensation" for plan 1 members, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan 2 and plan 3 members, means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2).

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

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

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

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

(22) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

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

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

(25) "Eligible position" means:

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

(b) Any position occupied by an elected official or person appointed directly by the governor, or appointed by the chief justice of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which compensation is paid.

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

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

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

(29) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

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

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

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

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

(34) "Plan 2" means the public employees' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and are not included in plan 3.

(35) "Plan 3" means the public employees' retirement system, plan 3 providing the benefits and funding provisions covering persons who:

(a) First become a member on or after:

(i) March 1, 2002, and are employed by a state agency or institute of higher education and who did not choose to enter plan 2; or

(ii) September 1, 2002, and are employed by other than a state agency or institute of higher education and who did not choose to enter plan 2; or

(b) Transferred to plan 3 under RCW 41.40.795.

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

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

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

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

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

(41) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(42) "Separation from service" occurs when a person has terminated all employment with an employer. Separation from service or employment does not occur, and if claimed by an employer or employee may be a violation of RCW 41.40.055, when an employee and employer have a written or oral agreement to resume employment with the same employer following termination.

(43) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

Sec. 54. RCW 41.26.500 and 1998 c 341 s 604 are each amended to read as follows:

(1) No retiree under the provisions of plan 2 shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, section 2 of this act, or 41.35.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030. If a retiree's benefits have been suspended under this section, his or

her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section.

Sec. 55. RCW 41.32.800 and 1998 c 341 s 605 are each amended to read as follows:

(1) Except as provided in RCW 41.32.802, no retiree under the provisions of plan 2 shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, section 2 of this act, or 41.35.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030.

If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section.

Sec. 56. RCW 41.35.230 and 1998 c 341 s 24 are each amended to read as follows:

(1) Except as provided in RCW 41.35.060, no retiree under the provisions of plan 2 shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.35.010, ~~((RCW))~~ 41.40.010, section 2 of this act, or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030, except that a retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.023(3)(b) is not subject to this section if the retiree's only employment is as an elective official.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(3) The department shall adopt rules implementing this section.

Sec. 57. RCW 41.40.690 and 1998 c 341 s 606 are each amended to read as follows:

(1) Except as provided in RCW 41.40.037, no retiree under the provisions of plan 2 shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, section 2 of this act, or 41.35.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030, except that a retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.023(3)(b) is not subject to this section if the retiree's only employment is as an elective official of a city or town.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's

benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(3) The department shall adopt rules implementing this section.

Sec. 58. RCW 41.54.010 and 1998 c 341 s 702 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Base salary" means salaries or wages earned by a member of a system during a payroll period for personal services and includes wages and salaries deferred under provisions of the United States internal revenue code, but shall exclude overtime payments, nonmoney maintenance compensation, and lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, any form of severance pay, any bonus for voluntary retirement, any other form of leave, or any similar lump sum payment.

(2) "Department" means the department of retirement systems.

(3) "Director" means the director of the department of retirement systems.

(4) "Dual member" means a person who (a) is or becomes a member of a system on or after July 1, 1988, (b) has been a member of one or more other systems, and (c) has never been retired for service from a retirement system and is not receiving a disability retirement or disability leave benefit from any retirement system listed in RCW 41.50.030 or subsection (6) of this section.

(5) "Service" means the same as it may be defined in each respective system. For the purposes of RCW 41.54.030, military service granted under RCW 41.40.170(3) or 43.43.260 may only be based on service accrued under chapter 41.40 or 43.43 RCW, respectively.

(6) "System" means the retirement systems established under chapters 41.32, 41.40, 41.44, 41.35, 41.— (sections 1 through 4 and 6 through 35 of this act), and 43.43 RCW; plan 2 of the system established under chapter 41.26 RCW; and the city employee retirement systems for Seattle, Tacoma, and Spokane. ~~((The inclusion of an individual first class city system is subject to the procedure set forth in RCW 41.54.061.))~~

Sec. 59. RCW 41.54.040 and 1998 c 341 s 704 are each amended to read as follows:

(1) The allowances calculated under RCW 41.54.030, 41.54.032, and 41.54.034 shall be paid separately by each respective current and prior system. Any deductions from such separate payments shall be according to the provisions of the respective systems.

(2) Postretirement adjustments, if any, shall be applied by the respective systems based on the payments made under subsection (1) of this section.

(3) The department shall adopt rules under chapter 34.05 RCW to ensure that where a dual member has service in a system established under chapter 41.32, 41.40, 41.44, 41.35, 41.— (sections 1 through 4 and 6 through 35 of this act), or 43.43 RCW; service in plan 2 of the system established under chapter 41.26 RCW; and service under the city employee retirement system for Seattle, Tacoma, or Spokane, the additional cost incurred as a result of the dual member receiving a benefit under this chapter shall be borne by the retirement system incurring the additional cost.

Sec. 60. RCW 43.84.092 and 2003 c 361 s 602, 2003 c 324 s 1, 2003 c 150 s 2, and 2003 c 48 s 2 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax

account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway

account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 61. RCW 41.32.802 and 2001 2nd sp.s. c 10 s 8 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, section 2 of this act, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.32.044, he or she terminates his or her retirement status and immediately becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible.

Sec. 62. RCW 41.32.862 and 2001 2nd sp.s. c 10 s 10 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, section 2 of this act, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.32.044, he or she terminates his or her retirement status and immediately becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible.

Sec. 63. RCW 41.40.037 and 2003 c 412 s 5 and 2003 c 295 s 7 are each reenacted and amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) Except as provided in (b) of this subsection, a retiree from plan 1 who enters employment with an employer at least one calendar month after his or her accrual date may continue to receive pension payments while engaged in such service for up to eight hundred sixty-seven hours of service in a calendar year without a reduction of pension.

(b) A retiree from plan 1 who enters employment with an employer at least three calendar months after his or her accrual date and:

(i) Is hired into a position for which the employer has documented a justifiable need to hire a retiree into the position;

(ii) Is hired through the established process for the position with the approval of: A school board for a school district; the chief executive officer of a state agency employer; the secretary of the senate for the senate; the chief clerk of the house of representatives for the house of representatives; the secretary of the senate and the chief clerk of the house of representatives jointly for the joint legislative audit and review committee, the legislative transportation committee, the joint committee on pension policy, the legislative evaluation and accountability program, the legislative systems committee, and the statute law committee; or according to rules adopted for the rehiring of retired plan 1 members for a local government employer;

(iii) The employer retains records of the procedures followed and decisions made in hiring the retiree, and provides those records in the event of an audit; and

(iv) The employee has not already rendered a cumulative total of more than one thousand nine hundred hours of service while in receipt of pension payments beyond an annual threshold of eight hundred sixty-seven hours;

shall cease to receive pension payments while engaged in that service after the retiree has rendered service for more than one thousand five hundred hours in a calendar year. The one thousand nine hundred hour cumulative total under this subsection applies prospectively to those retiring after July 27, 2003, and retroactively to those who retired prior to July 27, 2003, and shall be calculated from the date of retirement.

(c) When a plan 1 member renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that calendar year.

(d) A retiree from plan 2 or plan 3 who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours in a calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, section 2 of this act, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.40.023(12), he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

(5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five months in a calendar year without a reduction of his or her pension.

Sec. 64. RCW 41.35.060 and 2001 2nd sp.s. c 10 s 11 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, section 2 of this act, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.35.030, he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW

41.35.420 or 41.35.680. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

NEW SECTION. Sec. 65. This act takes effect July 1, 2006.

NEW SECTION. Sec. 66. The benefits provided pursuant to this act are not provided to employees as a matter of contractual right prior to July 1, 2006. The legislature retains the right to alter or abolish these benefits at any time prior to July 1, 2006.

NEW SECTION. Sec. 67. Sections 1 through 4 and 6 through 35 of this act constitute a new chapter in Title 41 RCW.

Passed by the House February 13, 2004.

Passed by the Senate March 11, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 243

[Engrossed Substitute House Bill 3188]

DEPARTMENT OF LABOR AND INDUSTRIES—OVERPAYMENTS

AN ACT Relating to liability to the department of labor and industries for premiums, overpayments, and penalties; amending RCW 51.08.177, 51.12.070, 51.36.110, 51.32.240, and 51.52.050; adding new sections to chapter 51.48 RCW; adding a new section to chapter 51.16 RCW; and creating new sections.

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

Sec. 1. RCW 51.08.177 and 1986 c 9 s 3 are each amended to read as follows:

"Successor" means any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, a major part of the ~~((materials, supplies, merchandise, inventory, fixtures, or equipment))~~ property, whether real or personal, tangible or intangible, of the taxpayer.

Sec. 2. RCW 51.12.070 and 1981 c 128 s 4 are each amended to read as follows:

The provisions of this title ~~((shall))~~ apply to all work done by contract; the person, firm, or corporation who lets a contract for such work ~~((shall be))~~ is responsible primarily and directly for all premiums upon the work. The contractor and any subcontractor ~~((shall be))~~ are subject to the provisions of this title and the person, firm, or corporation letting the contract ~~((shall be))~~ is entitled to collect from the contractor the full amount payable in premiums and the contractor in turn ~~((shall be))~~ is entitled to collect from the subcontractor his or her proportionate amount of the payment.

For the purposes of this section, a contractor registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW ~~((shall not be))~~ is not responsible for any premiums upon the work of any subcontractor if:

(1) The subcontractor is currently engaging in a business which is registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW;

(2) The subcontractor has a principal place of business which would be eligible for a business deduction for internal revenue service tax purposes other than that furnished by the contractor for which the business has contracted to furnish services;

(3) The subcontractor maintains a separate set of books or records that reflect all items of income and expenses of the business; ~~((and))~~

(4) The subcontractor has contracted to perform:

(a) The work of a contractor as defined in RCW 18.27.010; or

(b) The work of installing wires or equipment to convey electric current or installing apparatus to be operated by such current as it pertains to the electrical industry as described in chapter 19.28 RCW; and

(5) The subcontractor has an industrial insurance account in good standing with the department or is a self-insurer. For the purposes of this subsection, a contractor may consider a subcontractor's account to be in good standing if, within a year prior to letting the contract or master service agreement, and at least once a year thereafter, the contractor has verified with the department that the account is in good standing and the contractor has not received written notice from the department that the subcontractor's account status has changed. Acceptable documentation of verification includes a department document which includes an issued date or a dated printout of information from the department's internet web site showing a subcontractor's good standing. The department shall develop an approach to provide contractors with verification of the date of inquiries validating that the subcontractor's account is in good standing.

It ~~((shall be))~~ is unlawful for any county, city, or town to issue a construction building permit to any person who has not submitted to the department an estimate of payroll and paid premium thereon as provided by chapter 51.16 RCW of this title or proof ~~((that such person has qualified))~~ of qualification as a self-insurer.

NEW SECTION. Sec. 3. A new section is added to chapter 51.48 RCW to read as follows:

(1) Upon termination, dissolution, or abandonment of a corporate or limited liability company business, any officer, member, manager, or other person having control or supervision of payment and/or reporting of industrial insurance, or who is charged with the responsibility for the filing of returns, is personally liable for any unpaid premiums and interest and penalties on those premiums if such officer or other person willfully fails to pay or to cause to be paid any premiums due the department under chapter 51.16 RCW.

For purposes of this subsection "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(2) The officer, member, manager, or other person is liable only for premiums that became due during the period he or she had the control, supervision, responsibility, or duty to act for the corporation described in subsection (1) of this section, plus interest and penalties on those premiums.

(3) The officer, member, manager, or other person is not liable if that person is not exempt from mandatory coverage under RCW 51.12.020 and was directed not to pay the employer's premiums by someone who is exempt.

(4) The officer, member, manager, or other person is not liable if all of the assets of the corporation or limited liability company have been applied to its debts through bankruptcy or receivership.

(5) Any person having been issued a notice of assessment under this section is entitled to the appeal procedures under RCW 51.48.131.

(6) This section does not relieve the corporation or limited liability company of its liabilities under Title 51 RCW or otherwise impair other tax collection remedies afforded by law.

(7) Collection authority and procedures prescribed in this chapter apply to collections under this section.

NEW SECTION. Sec. 4. A new section is added to chapter 51.16 RCW to read as follows:

The department shall, working with business associations and other employer and employee groups when practical, publish information and provide training to promote understanding of the premium liability that may be incurred under this chapter.

NEW SECTION. Sec. 5. A new section is added to chapter 51.48 RCW to read as follows:

The department shall, working with business associations and other employer and employee groups when practical, publish information and provide training to promote understanding of the premium liability that may be incurred under this chapter.

Sec. 6. RCW 51.36.110 and 1994 c 154 s 312 are each amended to read as follows:

The director of the department of labor and industries or the director's authorized representative shall have the authority to:

(1) Conduct audits and investigations of providers of medical, chiropractic, dental, vocational, and other health services furnished to industrially injured workers pursuant to Title 51 RCW. In the conduct of such audits or investigations, the director or the director's authorized representatives may examine all records, or portions thereof, including patient records, for which services were rendered by a health services provider and reimbursed by the department, notwithstanding the provisions of any other statute which may make or purport to make such records privileged or confidential: PROVIDED, That no original patient records shall be removed from the premises of the health services provider, and that the disclosure of any records or information obtained under authority of this section by the department of labor and industries is prohibited and constitutes a violation of RCW 42.52.050, unless such disclosure is directly connected to the official duties of the department: AND PROVIDED FURTHER, That the disclosure of patient information as required under this section shall not subject any physician or other health services provider to any liability for breach of any confidential relationships between the provider and the patient: AND PROVIDED FURTHER, That the director or the director's authorized representative shall destroy all copies of patient medical records in their possession upon completion of the audit, investigation, or proceedings;

(2) Approve or deny applications to participate as a provider of services furnished to industrially injured workers pursuant to Title 51 RCW; (~~and~~)

(3) Terminate or suspend eligibility to participate as a provider of services furnished to industrially injured workers pursuant to Title 51 RCW; and

(4) Pursue collection of unpaid overpayments and/or penalties plus interest accrued from health care providers pursuant to RCW 51.32.240(6).

Sec. 7. RCW 51.32.240 and 2001 c 146 s 10 are each amended to read as follows:

(1)(a) Whenever any payment of benefits under this title is made because of clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstance of a similar nature, all not induced by (~~fraud~~) willful misrepresentation, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The department or self-insurer, as the case may be, must make claim for such repayment or recoupment within one year of the making of any such payment or it will be deemed any claim therefor has been waived.

(b) Except as provided in subsections (3), (4), and (5) of this section, the department may only assess an overpayment of benefits because of adjudicator error when the order upon which the overpayment is based is not yet final as provided in RCW 51.52.050 and 51.52.060. "Adjudicator error" includes the failure to consider information in the claim file, failure to secure adequate information, or an error in judgment.

(c) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise his discretion to waive, in whole or in part, the amount of any such timely claim where the recovery would be against equity and good conscience.

(2) Whenever the department or self-insurer fails to pay benefits because of clerical error, mistake of identity, or innocent misrepresentation, all not induced by recipient (~~fraud~~) willful misrepresentation, the recipient may request an adjustment of benefits to be paid from the state fund or by the self-insurer, as the case may be, subject to the following:

(a) The recipient must request an adjustment in benefits within one year from the date of the incorrect payment or it will be deemed any claim therefore has been waived.

(b) The recipient may not seek an adjustment of benefits because of adjudicator error. Adjustments due to adjudicator error are addressed by the filing of a written request for reconsideration with the department of labor and industries or an appeal with the board of industrial insurance appeals within sixty days from the date the order is communicated as provided in RCW 51.52.050. "Adjudicator error" includes the failure to consider information in the claim file, failure to secure adequate information, or an error in judgment.

(3) Whenever the department issues an order rejecting a claim for benefits paid pursuant to RCW 51.32.190 or 51.32.210, after payment for temporary disability benefits has been paid by a self-insurer pursuant to RCW 51.32.190(3) or by the department pursuant to RCW 51.32.210, the recipient thereof shall repay such benefits and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The director, under rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise

discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience.

(4) Whenever any payment of benefits under this title has been made pursuant to an adjudication by the department or by order of the board or any court and timely appeal therefrom has been made where the final decision is that any such payment was made pursuant to an erroneous adjudication, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise his discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience.

(5)(a) Whenever any payment of benefits under this title has been induced by ~~((fraud))~~ willful misrepresentation the recipient thereof shall repay any such payment together with a penalty of fifty percent of the total of any such payments and the amount of such total sum may be recouped from any future payments due to the recipient on any claim with the state fund or self-insurer against whom the ~~((fraud))~~ willful misrepresentation was committed, as the case may be, and the amount of such penalty shall be placed in the supplemental pension fund. Such repayment or recoupment must be demanded or ordered within three years of the discovery of the ~~((fraud))~~ willful misrepresentation.

(b) For purposes of this subsection (5), it is willful misrepresentation for a person to obtain payments or other benefits under this title in an amount greater than that to which the person otherwise would be entitled. Willful misrepresentation includes:

(i) Willful false statement; or

(ii) Willful misrepresentation, omission, or concealment of any material fact.

(c) For purposes of this subsection (5), "willful" means a conscious or deliberate false statement, misrepresentation, omission, or concealment of a material fact with the specific intent of obtaining, continuing, or increasing benefits under this title.

(d) For purposes of this subsection (5), failure to disclose a work-type activity must be willful in order for a misrepresentation to have occurred.

(e) For purposes of this subsection (5), a material fact is one which would result in additional, increased, or continued benefits, including but not limited to facts about physical restrictions, or work-type activities which either result in wages or income or would be reasonably expected to do so. Wages or income include the receipt of any goods or services. For a work-type activity to be reasonably expected to result in wages or income, a pattern of repeated activity must exist. For those activities that would reasonably be expected to result in wages or produce income, but for which actual wage or income information cannot be reasonably determined, the department shall impute wages pursuant to RCW 51.08.178(4).

(6) The worker, beneficiary, or other person affected thereby shall have the right to contest an order assessing an overpayment pursuant to this section in the same manner and to the same extent as provided under RCW 51.52.050 and 51.52.060. In the event such an order becomes final under chapter 51.52 RCW and notwithstanding the provisions of subsections (1) through (5) of this section,

the director, director's designee, or self-insurer may file with the clerk in any county within the state a warrant in the amount of the sum representing the unpaid overpayment and/or penalty plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the worker, beneficiary, or other person mentioned in the warrant, the amount of the unpaid overpayment and/or penalty plus interest accrued, and the date the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the worker, beneficiary, or other person against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department or self-insurer in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the worker, beneficiary, or other person within three days of filing with the clerk.

The director, director's designee, or self-insurer may issue to any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, a notice to withhold and deliver property of any kind if there is reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property that is due, owing, or belonging to any worker, beneficiary, or other person upon whom a warrant has been served for payments due the department or self-insurer. The notice and order to withhold and deliver shall be served by certified mail accompanied by an affidavit of service by mailing or served by the sheriff of the county, or by the sheriff's deputy, or by any authorized representative of the director, director's designee, or self-insurer. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired or in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with such notice and order, any property that may be subject to the claim of the department or self-insurer, such property shall be delivered forthwith to the director, the director's authorized representative, or self-insurer upon demand. If the party served and named in the notice and order fails to answer the notice and order within the time prescribed in this section, the court may, after the time to answer such order has expired, render judgment by default against the party named in the notice for the full amount, plus costs, claimed by the director, director's designee, or self-insurer in the notice. In the event that a notice to withhold and deliver is served upon an employer and the property found to be

subject thereto is wages, the employer may assert in the answer all exemptions provided for by chapter 6.27 RCW to which the wage earner may be entitled.

This subsection shall only apply to orders assessing an overpayment which are issued on or after July 28, 1991: PROVIDED, That this subsection shall apply retroactively to all orders assessing an overpayment resulting from fraud, civil or criminal.

(7) Orders assessing an overpayment which are issued on or after July 28, 1991, shall include a conspicuous notice of the collection methods available to the department or self-insurer.

Sec. 8. RCW 51.52.050 and 1987 c 151 s 1 are each amended to read as follows:

Whenever the department has made any order, decision, or award, it shall promptly serve the worker, beneficiary, employer, or other person affected thereby, with a copy thereof by mail, which shall be addressed to such person at his or her last known address as shown by the records of the department. The copy, in case the same is a final order, decision, or award, shall bear on the same side of the same page on which is found the amount of the award, a statement, set in black faced type of at least ten point body or size, that such final order, decision, or award shall become final within sixty days from the date the order is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia: PROVIDED, That a department order or decision making demand, whether with or without penalty, for repayment of sums paid to a provider of medical, dental, vocational, or other health services rendered to an industrially injured worker, shall state that such order or decision shall become final within twenty days from the date the order or decision is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia.

Whenever the department has taken any action or made any decision relating to any phase of the administration of this title the worker, beneficiary, employer, or other person aggrieved thereby may request reconsideration of the department, or may appeal to the board. In an appeal before the board, the appellant shall have the burden of proceeding with the evidence to establish a prima facie case for the relief sought in such appeal: PROVIDED, That in an appeal from an order of the department that alleges ~~((fraud))~~ willful misrepresentation, the department or self-insured employer shall initially introduce all evidence in its case in chief. Any such person aggrieved by the decision and order of the board may thereafter appeal to the superior court, as prescribed in this chapter.

NEW SECTION. **Sec. 9.** Section 7 of this act applies to willful misrepresentation determinations issued on or after July 1, 2004.

NEW SECTION. **Sec. 10.** The department shall adopt rules to implement this act.

Passed by the House March 10, 2004.

Passed by the Senate March 11, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 244

[Engrossed Substitute House Bill 2460]

HEALTH INSURANCE—SMALL EMPLOYERS

AN ACT Relating to access to health insurance for small employers and their employees; amending RCW 48.21.045, 48.43.018, 48.43.035, 48.43.038, 48.44.022, 48.44.023, 48.46.064, 48.46.066, 48.21.143, 48.21.250, 48.44.315, 48.44.360, 48.46.272, and 48.46.440; reenacting and amending RCW 48.43.005; creating a new section; and repealing RCW 48.21.260, 48.21.270, 48.44.370, 48.44.380, 48.46.450, and 48.46.460.

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

Sec. 1. RCW 48.21.045 and 1995 c 265 s 14 are each amended to read as follows:

(1)(a) An insurer offering any health benefit plan to a small employer ~~((shall)), either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer a health benefit plan ((providing benefits identical to the schedule of covered health services that are required to be delivered to an individual enrolled in the basic health plan)) featuring a limited schedule of covered health care services.~~ Nothing in this subsection shall preclude an insurer from offering, or a small employer from purchasing, other health benefit plans that may have more ~~((or less))~~ comprehensive benefits than ~~((the basic health plan, provided such plans are in accordance with this chapter)) those included in the product offered under this subsection.~~ An insurer offering a health benefit plan ~~((that does not include benefits in the basic health plan)) under this subsection~~ shall clearly disclose ~~((these differences)) all covered benefits~~ to the small employer in a brochure ~~((approved by)) filed with~~ the commissioner.

(b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142, 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200, 48.21.220, 48.21.225, 48.21.230, 48.21.235, 48.21.240, 48.21.244, 48.21.250, 48.21.300, 48.21.310, or 48.21.320 ~~((if: (i) The health benefit plan is the mandatory offering under (a) of this subsection that provides benefits identical to the basic health plan, to the extent these requirements differ from the basic health plan; or (ii) the health benefit plan is offered to employers with not more than twenty-five employees)).~~

(2) Nothing in this section shall prohibit an insurer from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the ((basic health plan services)) health benefit plan offered under subsection (1) of this section. All forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.

(3) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The insurer shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; and
- (iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The insurer shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection (3).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs (~~not to exceed twenty percent~~).

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the enrollment of the small employer;
- (ii) Changes to the family composition of the employee;
- (iii) Changes to the health benefit plan requested by the small employer; or
- (iv) Changes in government requirements affecting the health benefit plan.

(g) Rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. A carrier may develop its rates based on claims costs due to network provider reimbursement schedules or type of network. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Adjusted community rates established under this section shall pool the medical experience of all small groups purchasing coverage. However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus four percentage points from the overall adjustment of a carrier's entire small group pool, such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be

approved or denied within sixty days of submittal. A variation that is not denied within sixty days shall be deemed approved. The commissioner must provide to the carrier a detailed actuarial justification for any denial within thirty days of the denial.

(4) (~~The health benefit plans authorized by this section that are lower than the required offering shall not supplant or supersede any existing policy for the benefit of employees in this state.~~) Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

(5)(a) Except as provided in this subsection, requirements used by an insurer in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) An insurer shall not require a minimum participation level greater than:

(i) One hundred percent of eligible employees working for groups with three or less employees; and

(ii) Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) An insurer may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(6) An insurer must offer coverage to all eligible employees of a small employer and their dependents. An insurer may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. An insurer may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

(7) As used in this section, "health benefit plan," "small employer," (~~"basic health plan,"~~) "adjusted community rate," and "wellness activities" mean the same as defined in RCW 48.43.005.

Sec. 2. RCW 48.43.005 and 2001 c 196 s 5 and 2001 c 147 s 1 are each reenacted and amended to read as follows:

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

(2) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(3) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(d).

(4) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(5) "Catastrophic health plan" means:

(a) In the case of a contract, agreement, or policy covering a single enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, one thousand five hundred dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least three thousand dollars; and

(b) In the case of a contract, agreement, or policy covering more than one enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, three thousand dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least five thousand five hundred dollars; or

(c) Any health benefit plan that provides benefits for hospital inpatient and outpatient services, professional and prescription drugs provided in conjunction with such hospital inpatient and outpatient services, and excludes or substantially limits outpatient physician services and those services usually provided in an office setting.

(6) "Certification" means a determination by a review organization that an admission, extension of stay, or other health care service or procedure has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness under the auspices of the applicable health benefit plan.

(7) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(8) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

(9) "Dependent" means, at a minimum, the enrollee's legal spouse and unmarried dependent children who qualify for coverage under the enrollee's health benefit plan.

(10) "Eligible employee" means an employee who works on a full-time basis with a normal work week of thirty or more hours. The term includes a self-employed individual, including a sole proprietor, a partner of a partnership, and may include an independent contractor, if the self-employed individual, sole proprietor, partner, or independent contractor is included as an employee under a health benefit plan of a small employer, but does not work less than thirty hours per week and derives at least seventy-five percent of his or her income from a trade or business through which he or she has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form. Persons covered under a health benefit plan pursuant to the consolidated omnibus budget reconciliation act of 1986 shall not be considered eligible employees for purposes of minimum participation requirements of chapter 265, Laws of 1995.

(11) "Emergency medical condition" means the emergent and acute onset of a symptom or symptoms, including severe pain, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires

immediate medical attention, if failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

(12) "Emergency services" means otherwise covered health care services medically necessary to evaluate and treat an emergency medical condition, provided in a hospital emergency department.

(13) "Enrollee point-of-service cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(14) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding: (a) Denial of payment for medical services or nonprovision of medical services included in the covered person's health benefit plan, or (b) service delivery issues other than denial of payment for medical services or nonprovision of medical services, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

(15) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(16) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(17) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(18) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020.

(19) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services except the following:

(a) Long-term care insurance governed by chapter 48.84 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;

(d) Disability income;

(e) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(f) Workers' compensation coverage;

(g) Accident only coverage;

(h) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;

(i) Employer-sponsored self-funded health plans;

(j) Dental only and vision only coverage; and

(k) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

(20) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

(21) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(22) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(23) "Review organization" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, health care service contractor as defined in RCW 48.44.010, or health maintenance organization as defined in RCW 48.46.020, and entities affiliated with, under contract with, or acting on behalf of a health carrier to perform a utilization review.

(24) "Small employer" or "small group" means any person, firm, corporation, partnership, association, political subdivision, sole proprietor, or self-employed individual that is actively engaged in business that, on at least fifty percent of its working days during the preceding calendar quarter, employed at least two but no more than fifty eligible employees, with a normal work week of thirty or more hours, the majority of whom were employed within this state, and is not formed primarily for purposes of buying health insurance and in which a bona fide employer-employee relationship exists. In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small employer no longer meets the requirements of this definition. ~~((The term "small employer" includes a self-employed individual or sole proprietor. The term "small employer" also includes))~~ A self-employed individual or sole proprietor ((who derives)) must derive at least seventy-five percent of his or her income from a

trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year except for a self-employed individual or sole proprietor in an agricultural trade or business, who must derive at least fifty-one percent of his or her income from the trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, for the previous taxable year. A self-employed individual or sole proprietor who is covered as a group of one on the day prior to the effective date of this section shall also be considered a "small employer" to the extent that individual or group of one is entitled to have his or her coverage renewed as provided in RCW 48.43.035(6).

(25) "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

(26) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, such as, smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education for the purpose of improving enrollee health status and reducing health service costs.

Sec. 3. RCW 48.43.018 and 2001 c 196 s 8 are each amended to read as follows:

(1) Except as provided in (a) through ~~((e))~~ (e) of this subsection, a health carrier may require any person applying for an individual health benefit plan to complete the standard health questionnaire designated under chapter 48.41 RCW.

(a) If a person is seeking an individual health benefit plan due to his or her change of residence from one geographic area in Washington state to another geographic area in Washington state where his or her current health plan is not offered, completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of relocation.

(b) If a person is seeking an individual health benefit plan:

(i) Because a health care provider with whom he or she has an established care relationship and from whom he or she has received treatment within the past twelve months is no longer part of the carrier's provider network under his or her existing Washington individual health benefit plan; and

(ii) His or her health care provider is part of another carrier's provider network; and

(iii) Application for a health benefit plan under that carrier's provider network individual coverage is made within ninety days of his or her provider leaving the previous carrier's provider network; then completion of the standard health questionnaire shall not be a condition of coverage.

(c) If a person is seeking an individual health benefit plan due to his or her having exhausted continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of exhaustion of continuation coverage. A health carrier shall accept an application without a

standard health questionnaire from a person currently covered by such continuation coverage if application is made within ninety days prior to the date the continuation coverage would be exhausted and the effective date of the individual coverage applied for is the date the continuation coverage would be exhausted, or within ninety days thereafter.

(d) If a person is seeking an individual health benefit plan due to his or her receiving notice that his or her coverage under a conversion contract is discontinued, completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of discontinuation of eligibility under the conversion contract. A health carrier shall accept an application without a standard health questionnaire from a person currently covered by such conversion contract if application is made within ninety days prior to the date eligibility under the conversion contract would be discontinued and the effective date of the individual coverage applied for is the date eligibility under the conversion contract would be discontinued, or within ninety days thereafter.

(e) If a person is seeking an individual health benefit plan and, but for the number of persons employed by his or her employer, would have qualified for continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of a qualifying event as defined in 29 U.S.C. Sec. 1163; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the qualifying event. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of a qualifying event and the effective date of the individual coverage applied for is the date of the qualifying event, or within ninety days thereafter.

(2) If, based upon the results of the standard health questionnaire, the person qualifies for coverage under the Washington state health insurance pool, the following shall apply:

(a) The carrier may decide not to accept the person's application for enrollment in its individual health benefit plan; and

(b) Within fifteen business days of receipt of a completed application, the carrier shall provide written notice of the decision not to accept the person's application for enrollment to both the person and the administrator of the Washington state health insurance pool. The notice to the person shall state that the person is eligible for health insurance provided by the Washington state health insurance pool, and shall include information about the Washington state health insurance pool and an application for such coverage. If the carrier does not provide or postmark such notice within fifteen business days, the application is deemed approved.

(3) If the person applying for an individual health benefit plan: (a) Does not qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire; (b) does qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire and the carrier elects to accept the person for enrollment; or (c) is not required to complete the standard health questionnaire designated under this chapter under subsection (1)(a) or (b) of this

section, the carrier shall accept the person for enrollment if he or she resides within the carrier's service area and provide or assure the provision of all covered services regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment status, socioeconomic status, other condition or situation, or the provisions of RCW 49.60.174(2). The commissioner may grant a temporary exemption from this subsection if, upon application by a health carrier, the commissioner finds that the clinical, financial, or administrative capacity to serve existing enrollees will be impaired if a health carrier is required to continue enrollment of additional eligible individuals.

Sec. 4. RCW 48.43.035 and 2000 c 79 s 24 are each amended to read as follows:

For group health benefit plans, the following shall apply:

(1) All health carriers shall accept for enrollment any state resident within the group to whom the plan is offered and within the carrier's service area and provide or assure the provision of all covered services regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment status, socioeconomic status, other condition or situation, or the provisions of RCW 49.60.174(2). The insurance commissioner may grant a temporary exemption from this subsection, if, upon application by a health carrier the commissioner finds that the clinical, financial, or administrative capacity to serve existing enrollees will be impaired if a health carrier is required to continue enrollment of additional eligible individuals.

(2) Except as provided in subsection (5) of this section, all health plans shall contain or incorporate by endorsement a guarantee of the continuity of coverage of the plan. For the purposes of this section, a plan is "renewed" when it is continued beyond the earliest date upon which, at the carrier's sole option, the plan could have been terminated for other than nonpayment of premium. The carrier may consider the group's anniversary date as the renewal date for purposes of complying with the provisions of this section.

(3) The guarantee of continuity of coverage required in health plans shall not prevent a carrier from canceling or nonrenewing a health plan for:

(a) Nonpayment of premium;

(b) Violation of published policies of the carrier approved by the insurance commissioner;

(c) Covered persons entitled to become eligible for medicare benefits by reason of age who fail to apply for a medicare supplement plan or medicare cost, risk, or other plan offered by the carrier pursuant to federal laws and regulations;

(d) Covered persons who fail to pay any deductible or copayment amount owed to the carrier and not the provider of health care services;

(e) Covered persons committing fraudulent acts as to the carrier;

(f) Covered persons who materially breach the health plan; or

(g) Change or implementation of federal or state laws that no longer permit the continued offering of such coverage.

(4) The provisions of this section do not apply in the following cases:

(a) A carrier has zero enrollment on a product; ((or))

(b) A carrier replaces a product and the replacement product is provided to all covered persons within that class or line of business, includes all of the services covered under the replaced product, and does not significantly limit

access to the kind of services covered under the replaced product. The health plan may also allow unrestricted conversion to a fully comparable product; ((e))

(c) No sooner than January 1, 2005, a carrier discontinues offering a particular type of health benefit plan offered for groups of up to two hundred if: (i) The carrier provides notice to each group of the discontinuation at least ninety days prior to the date of the discontinuation; (ii) the carrier offers to each group provided coverage of this type the option to enroll, with regard to small employer groups, in any other small employer group plan, or with regard to groups of up to two hundred, in any other applicable group plan, currently being offered by the carrier in the applicable group market; and (iii) in exercising the option to discontinue coverage of this type and in offering the option of coverage under (c)(ii) of this subsection, the carrier acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for this coverage;

(d) A carrier discontinues offering all health coverage in the small group market or for groups of up to two hundred, or both markets, in the state and discontinues coverage under all existing group health benefit plans in the applicable market involved if: (i) The carrier provides notice to the commissioner of its intent to discontinue offering all such coverage in the state and its intent to discontinue coverage under all such existing health benefit plans at least one hundred eighty days prior to the date of the discontinuation of coverage under all such existing health benefit plans; and (ii) the carrier provides notice to each covered group of the intent to discontinue the existing health benefit plan at least one hundred eighty days prior to the date of discontinuation. In the case of discontinuation under this subsection, the carrier may not issue any group health coverage in this state in the applicable group market involved for a five-year period beginning on the date of the discontinuation of the last health benefit plan not so renewed. This subsection (4) does not require a carrier to provide notice to the commissioner of its intent to discontinue offering a health benefit plan to new applicants when the carrier does not discontinue coverage of existing enrollees under that health benefit plan; or

(e) A carrier is withdrawing from a service area or from a segment of its service area because the carrier has demonstrated to the insurance commissioner that the carrier's clinical, financial, or administrative capacity to serve enrollees would be exceeded.

(5) The provisions of this section do not apply to health plans deemed by the insurance commissioner to be unique or limited or have a short-term purpose, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

(6) Notwithstanding any other provision of this section, the guarantee of continuity of coverage applies to a group of one only if: (a) The carrier continues to offer any other small employer group plan in which the group of one was eligible to enroll on the day prior to the effective date of this section; and (b) the person continues to qualify as a group of one under the criteria in place on the day prior to the effective date of this section.

**Sec. 5. RCW 48.43.038 and 2000 c 79 s 25 are each amended to read as follows:*

(1) Except as provided in subsection (4) of this section, all individual health plans shall contain or incorporate by endorsement a guarantee of the

continuity of coverage of the plan. For the purposes of this section, a plan is "renewed" when it is continued beyond the earliest date upon which, at the carrier's sole option, the plan could have been terminated for other than nonpayment of premium.

(2) The guarantee of continuity of coverage required in individual health plans shall not prevent a carrier from canceling or nonrenewing a health plan for:

(a) Nonpayment of premium;

(b) Violation of published policies of the carrier approved by the commissioner;

(c) Covered persons entitled to become eligible for medicare benefits by reason of age who fail to apply for a medicare supplement plan or medicare cost, risk, or other plan offered by the carrier pursuant to federal laws and regulations;

(d) Covered persons who fail to pay any deductible or copayment amount owed to the carrier and not the provider of health care services;

(e) Covered persons committing fraudulent acts as to the carrier;

(f) Covered persons who materially breach the health plan; or

(g) Change or implementation of federal or state laws that no longer permit the continued offering of such coverage.

(3) This section does not apply in the following cases:

(a) A carrier has zero enrollment on a product;

(b) A carrier is withdrawing from a service area or from a segment of its service area because the carrier has demonstrated to the commissioner that the carrier's clinical, financial, or administrative capacity to serve enrollees would be exceeded;

(c) No sooner than the first day of the month following the expiration of a one hundred eighty-day period beginning on March 23, 2000, a carrier discontinues offering a particular type of health benefit plan offered in the individual market, including conversion contracts, if: (i) The carrier provides notice to each covered individual provided coverage of this type of such discontinuation at least ninety days prior to the date of the discontinuation; (ii) the carrier offers to each individual provided coverage of this type the option, without being subject to the standard health questionnaire, to enroll in any other individual health benefit plan currently being offered by the carrier; and (iii) in exercising the option to discontinue coverage of this type and in offering the option of coverage under (c)(ii) of this subsection, the carrier acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for such coverage; or

(d) A carrier discontinues offering all individual health coverage in the state and discontinues coverage under all existing individual health benefit plans if: (i) The carrier provides notice to the commissioner of its intent to discontinue offering all individual health coverage in the state and its intent to discontinue coverage under all existing health benefit plans at least one hundred eighty days prior to the date of the discontinuation of coverage under all existing health benefit plans; and (ii) the carrier provides notice to each covered individual of the intent to discontinue his or her existing health benefit plan at least one hundred eighty days prior to the date of such discontinuation. In the case of discontinuation under this subsection, the

carrier may not issue any individual health coverage in this state for a five-year period beginning on the date of the discontinuation of the last health plan not so renewed. Nothing in this subsection (3) shall be construed to require a carrier to provide notice to the commissioner of its intent to discontinue offering a health benefit plan to new applicants where the carrier does not discontinue coverage of existing enrollees under that health benefit plan.

(4) The provisions of this section do not apply to health plans deemed by the commissioner to be unique or limited or have a short-term purpose, after a written request for such classification by the carrier and subsequent written approval by the commissioner.

*Sec. 5 was vetoed. See message at end of chapter.

Sec. 6. RCW 48.44.022 and 2000 c 79 s 30 are each amended to read as follows:

(1) Premium rates for health benefit plans for individuals shall be subject to the following provisions:

(a) The health care service contractor shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age;
- (iv) Tenure discounts; and
- (v) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments which shall begin with age twenty and end with age sixty-five. Individuals under the age of twenty shall be treated as those age twenty.

(c) The health care service contractor shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection.

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs (~~not to exceed twenty percent~~).

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the family composition;
- (ii) Changes to the health benefit plan requested by the individual; or
- (iii) Changes in government requirements affecting the health benefit plan.

(g) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(h) A tenure discount for continuous enrollment in the health plan of two years or more may be offered, not to exceed ten percent.

(2) Adjusted community rates established under this section shall pool the medical experience of all individuals purchasing coverage, and shall not be required to be pooled with the medical experience of health benefit plans offered to small employers under RCW 48.44.023.

(3) As used in this section and RCW 48.44.023 "health benefit plan," "small employer," "adjusted community rates," and "wellness activities" mean the same as defined in RCW 48.43.005.

Sec. 7. RCW 48.44.023 and 1995 c 265 s 16 are each amended to read as follows:

(1)(a) A health care services contractor offering any health benefit plan to a small employer (~~shall~~), either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer a health benefit plan (~~((providing benefits identical to the schedule of covered health services that are required to be delivered to an individual enrolled in the basic health plan))~~) featuring a limited schedule of covered health care services. Nothing in this subsection shall preclude a contractor from offering, or a small employer from purchasing, other health benefit plans that may have more (~~(or less))~~) comprehensive benefits than (~~((the basic health plan, provided such plans are in accordance with this chapter))~~) those included in the product offered under this subsection. A contractor offering a health benefit plan (~~((that does not include benefits in the basic health plan))~~) under this subsection shall clearly disclose (~~((these differences))~~) all covered benefits to the small employer in a brochure (~~((approved by))~~) filed with the commissioner.

(b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290, 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335, 48.44.340, 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450, and 48.44.460 (~~((if: (i) The health benefit plan is the mandatory offering under (a) of this subsection that provides benefits identical to the basic health plan, to the extent these requirements differ from the basic health plan; or (ii) the health benefit plan is offered to employers with not more than twenty-five employees)).~~)).

(2) Nothing in this section shall prohibit a health care service contractor from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the (~~((basic health plan services))~~) health benefit plan offered under subsection (1) of this section. All forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.

(3) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The contractor shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; and

(iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The contractor shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection (3).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs (~~not to exceed twenty percent~~).

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the enrollment of the small employer;
- (ii) Changes to the family composition of the employee;
- (iii) Changes to the health benefit plan requested by the small employer; or
- (iv) Changes in government requirements affecting the health benefit plan.

(g) Rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. A carrier may develop its rates based on claims costs due to network provider reimbursement schedules or type of network. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Adjusted community rates established under this section shall pool the medical experience of all groups purchasing coverage. However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus four percentage points from the overall adjustment of a carrier's entire small group pool, such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be approved or denied within sixty days of submittal. A variation that is not denied within sixty days shall be deemed approved. The commissioner must provide to the carrier a detailed actuarial justification for any denial within thirty days of the denial.

(4) ~~((The health benefit plans authorized by this section that are lower than the required offering shall not supplant or supersede any existing policy for the benefit of employees in this state.))~~ Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

(5)(a) Except as provided in this subsection, requirements used by a contractor in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) A contractor shall not require a minimum participation level greater than:

(i) One hundred percent of eligible employees working for groups with three or less employees; and

(ii) Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) A contractor may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(6) A contractor must offer coverage to all eligible employees of a small employer and their dependents. A contractor may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. A contractor may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

Sec. 8. RCW 48.46.064 and 2000 c 79 s 33 are each amended to read as follows:

(1) Premium rates for health benefit plans for individuals shall be subject to the following provisions:

(a) The health maintenance organization shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

(i) Geographic area;

(ii) Family size;

(iii) Age;

(iv) Tenure discounts; and

(v) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments which shall begin with age twenty and end with age sixty-five. Individuals under the age of twenty shall be treated as those age twenty.

(c) The health maintenance organization shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection.

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs (~~not to exceed twenty percent~~).

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

(i) Changes to the family composition;

(ii) Changes to the health benefit plan requested by the individual; or

(iii) Changes in government requirements affecting the health benefit plan.

(g) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(h) A tenure discount for continuous enrollment in the health plan of two years or more may be offered, not to exceed ten percent.

(2) Adjusted community rates established under this section shall pool the medical experience of all individuals purchasing coverage, and shall not be required to be pooled with the medical experience of health benefit plans offered to small employers under RCW 48.46.066.

(3) As used in this section and RCW 48.46.066, "health benefit plan," "adjusted community rate," "small employer," and "wellness activities" mean the same as defined in RCW 48.43.005.

Sec. 9. RCW 48.46.066 and 1995 c 265 s 18 are each amended to read as follows:

(1)(a) A health maintenance organization offering any health benefit plan to a small employer (~~shall~~), either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer a health benefit plan ((providing benefits identical to the schedule of covered health services that are required to be delivered to an individual enrolled in the basic health plan)) featuring a limited schedule of covered health care services. Nothing in this subsection shall preclude a health maintenance organization from offering, or a small employer from purchasing, other health benefit plans that may have more (~~or less~~) comprehensive benefits than ~~((the basic health plan, provided such plans are in accordance with this chapter))~~ those included in the product offered under this subsection. A health maintenance organization offering a health benefit plan ~~((that does not include benefits in the basic health plan))~~ under this subsection shall clearly disclose ~~((these differences))~~ all the covered benefits to the small employer in a brochure ~~((approved by))~~ filed with the commissioner.

(b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.46.275, 48.46.280, 48.46.285, 48.46.290, 48.46.350, 48.46.355,

48.46.375, 48.46.440, 48.46.480, 48.46.510, 48.46.520, and 48.46.530 ((if: (i) The health benefit plan is the mandatory offering under (a) of this subsection that provides benefits identical to the basic health plan, to the extent these requirements differ from the basic health plan; or (ii) the health benefit plan is offered to employers with not more than twenty-five employees)).

(2) Nothing in this section shall prohibit a health maintenance organization from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the ((basic health plan services)) health benefit plan offered under subsection (1) of this section. All forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.

(3) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The health maintenance organization shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; and
- (iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The health maintenance organization shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection (3).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs ((not to exceed twenty percent)).

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the enrollment of the small employer;
- (ii) Changes to the family composition of the employee;
- (iii) Changes to the health benefit plan requested by the small employer; or
- (iv) Changes in government requirements affecting the health benefit plan.

(g) Rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs.

A carrier may develop its rates based on claims costs due to network provider reimbursement schedules or type of network. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Adjusted community rates established under this section shall pool the medical experience of all groups purchasing coverage. However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus four percentage points from the overall adjustment of a carrier's entire small group pool, such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be approved or denied within sixty days of submittal. A variation that is not denied within sixty days shall be deemed approved. The commissioner must provide to the carrier a detailed actuarial justification for any denial within thirty days of the denial.

~~(4) ((The health benefit plans authorized by this section that are lower than the required offering shall not supplant or supersede any existing policy for the benefit of employees in this state.))~~ Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

(5)(a) Except as provided in this subsection, requirements used by a health maintenance organization in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) A health maintenance organization shall not require a minimum participation level greater than:

(i) One hundred percent of eligible employees working for groups with three or less employees; and

(ii) Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) A health maintenance organization may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(6) A health maintenance organization must offer coverage to all eligible employees of a small employer and their dependents. A health maintenance organization may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. A health maintenance organization may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

Sec. 10. RCW 48.21.143 and 1997 c 276 s 3 are each amended to read as follows:

The legislature finds that diabetes imposes a significant health risk and tremendous financial burden on the citizens and government of the state of Washington, and that access to the medically accepted standards of care for diabetes, its treatment and supplies, and self-management training and education is crucial to prevent or delay the short and long-term complications of diabetes and its attendant costs.

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Person with diabetes" means a person diagnosed by a health care provider as having insulin using diabetes, noninsulin using diabetes, or elevated blood glucose levels induced by pregnancy; and

(b) "Health care provider" means a health care provider as defined in RCW 48.43.005.

(2) All group disability insurance contracts and blanket disability insurance contracts providing health care services, issued or renewed after January 1, 1998, shall provide benefits for at least the following services and supplies for persons with diabetes:

(a) For group disability insurance contracts and blanket disability insurance contracts that include coverage for pharmacy services, appropriate and medically necessary equipment and supplies, as prescribed by a health care provider, that includes but is not limited to insulin, syringes, injection aids, blood glucose monitors, test strips for blood glucose monitors, visual reading and urine test strips, insulin pumps and accessories to the pumps, insulin infusion devices, prescriptive oral agents for controlling blood sugar levels, foot care appliances for prevention of complications associated with diabetes, and glucagon emergency kits; and

(b) For all group disability insurance contracts and blanket disability insurance contracts providing health care services, outpatient self-management training and education, including medical nutrition therapy, as ordered by the health care provider. Diabetes outpatient self-management training and education may be provided only by health care providers with expertise in diabetes. Nothing in this section prevents the insurer from restricting patients to seeing only health care providers who have signed participating provider agreements with the insurer or an insuring entity under contract with the insurer.

(3) Coverage required under this section may be subject to customary cost-sharing provisions established for all other similar services or supplies within a policy.

(4) Health care coverage may not be reduced or eliminated due to this section.

(5) Services required under this section shall be covered when deemed medically necessary by the medical director, or his or her designee, subject to any referral and formulary requirements.

(6) The insurer need not include the coverage required in this section in a group contract offered to an employer or other group that offers to its eligible enrollees a self-insured health plan not subject to mandated benefits status under this title that does not offer coverage similar to that mandated under this section.

(7) This section does not apply to the health benefit plan that provides benefits identical to the schedule of services covered by the basic health plan(~~as required by RCW 48.21.045~~).

**Sec. 11. RCW 48.21.250 and 1984 c 190 s 2 are each amended to read as follows:*

Every insurer that issues policies providing group coverage for hospital or medical expense shall offer the policyholder an option to include a policy provision granting a person who becomes ineligible for coverage under the group policy, the right to continue the group benefits for a period of time and at a rate agreed upon. ~~((The policy provision shall provide that when such coverage terminates, the covered person may convert to a policy as provided in RCW 48.21.260.))~~

**Sec. 11 was vetoed. See message at end of chapter.*

Sec. 12. RCW 48.44.315 and 1997 c 276 s 4 are each amended to read as follows:

The legislature finds that diabetes imposes a significant health risk and tremendous financial burden on the citizens and government of the state of Washington, and that access to the medically accepted standards of care for diabetes, its treatment and supplies, and self-management training and education is crucial to prevent or delay the short and long-term complications of diabetes and its attendant costs.

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Person with diabetes" means a person diagnosed by a health care provider as having insulin using diabetes, noninsulin using diabetes, or elevated blood glucose levels induced by pregnancy; and

(b) "Health care provider" means a health care provider as defined in RCW 48.43.005.

(2) All health benefit plans offered by health care service contractors, issued or renewed after January 1, 1998, shall provide benefits for at least the following services and supplies for persons with diabetes:

(a) For health benefit plans that include coverage for pharmacy services, appropriate and medically necessary equipment and supplies, as prescribed by a health care provider, that includes but is not limited to insulin, syringes, injection aids, blood glucose monitors, test strips for blood glucose monitors, visual reading and urine test strips, insulin pumps and accessories to the pumps, insulin infusion devices, prescriptive oral agents for controlling blood sugar levels, foot care appliances for prevention of complications associated with diabetes, and glucagon emergency kits; and

(b) For all health benefit plans, outpatient self-management training and education, including medical nutrition therapy, as ordered by the health care provider. Diabetes outpatient self-management training and education may be provided only by health care providers with expertise in diabetes. Nothing in this section prevents the health care services contractor from restricting patients to seeing only health care providers who have signed participating provider agreements with the health care services contractor or an insuring entity under contract with the health care services contractor.

(3) Coverage required under this section may be subject to customary cost-sharing provisions established for all other similar services or supplies within a policy.

(4) Health care coverage may not be reduced or eliminated due to this section.

(5) Services required under this section shall be covered when deemed medically necessary by the medical director, or his or her designee, subject to any referral and formulary requirements.

(6) The health care service contractor need not include the coverage required in this section in a group contract offered to an employer or other group that offers to its eligible enrollees a self-insured health plan not subject to mandated benefits status under this title that does not offer coverage similar to that mandated under this section.

(7) This section does not apply to the health benefit plans that provide benefits identical to the schedule of services covered by the basic health plan(, as required by RCW 48.44.022 and 48.44.023)).

***Sec. 13. RCW 48.44.360 and 1984 c 190 s 5 are each amended to read as follows:**

Every health care service contractor that issues group contracts providing group coverage for hospital or medical expense shall offer the contract holder an option to include a contract provision granting a person who becomes ineligible for coverage under the group contract, the right to continue the group benefits for a period of time and at a rate agreed upon. ((The contract provision shall provide that when such coverage terminates, the covered person may convert to a contract as provided in RCW 48.44.370.))

*Sec. 13 was vetoed. See message at end of chapter.

Sec. 14. RCW 48.46.272 and 1997 c 276 s 5 are each amended to read as follows:

The legislature finds that diabetes imposes a significant health risk and tremendous financial burden on the citizens and government of the state of Washington, and that access to the medically accepted standards of care for diabetes, its treatment and supplies, and self-management training and education is crucial to prevent or delay the short and long-term complications of diabetes and its attendant costs.

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Person with diabetes" means a person diagnosed by a health care provider as having insulin using diabetes, noninsulin using diabetes, or elevated blood glucose levels induced by pregnancy; and

(b) "Health care provider" means a health care provider as defined in RCW 48.43.005.

(2) All health benefit plans offered by health maintenance organizations, issued or renewed after January 1, 1998, shall provide benefits for at least the following services and supplies for persons with diabetes:

(a) For health benefit plans that include coverage for pharmacy services, appropriate and medically necessary equipment and supplies, as prescribed by a health care provider, that includes but is not limited to insulin, syringes, injection aids, blood glucose monitors, test strips for blood glucose monitors, visual reading and urine test strips, insulin pumps and accessories to the pumps, insulin

infusion devices, prescriptive oral agents for controlling blood sugar levels, foot care appliances for prevention of complications associated with diabetes, and glucagon emergency kits; and

(b) For all health benefit plans, outpatient self-management training and education, including medical nutrition therapy, as ordered by the health care provider. Diabetes outpatient self-management training and education may be provided only by health care providers with expertise in diabetes. Nothing in this section prevents the health maintenance organization from restricting patients to seeing only health care providers who have signed participating provider agreements with the health maintenance organization or an insuring entity under contract with the health maintenance organization.

(3) Coverage required under this section may be subject to customary cost-sharing provisions established for all other similar services or supplies within a policy.

(4) Health care coverage may not be reduced or eliminated due to this section.

(5) Services required under this section shall be covered when deemed medically necessary by the medical director, or his or her designee, subject to any referral and formulary requirements.

(6) The health maintenance organization need not include the coverage required in this section in a group contract offered to an employer or other group that offers to its eligible enrollees a self-insured health plan not subject to mandated benefits status under this title that does not offer coverage similar to that mandated under this section.

(7) This section does not apply to the health benefit plans that provide benefits identical to the schedule of services covered by the basic health plan (as required by RCW 48.46.064 and 48.46.066).

**Sec. 15. RCW 48.46.440 and 1984 c 190 s 8 are each amended to read as follows:*

Every health maintenance organization that issues agreements providing group coverage for hospital or medical care shall offer the agreement holder an option to include an agreement provision granting a person who becomes ineligible for coverage under the group agreement, the right to continue the group benefits for a period of time and at a rate agreed upon. ((The agreement provision shall provide that when such coverage terminates the covered person may convert to an agreement as provided in RCW 48.46.450.))

**Sec. 15 was vetoed. See message at end of chapter.*

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

(1) RCW 48.21.260 (Conversion policy to be offered—Exceptions, conditions) and 1984 c 190 s 3;

(2) RCW 48.21.270 (Conversion policy—Restrictions and requirements) and 1984 c 190 s 4;

(3) RCW 48.44.370 (Conversion contract to be offered—Exceptions, conditions) and 1984 c 190 s 6;

(4) RCW 48.44.380 (Conversion contract—Restrictions and requirements) and 1984 c 190 s 7;

(5) RCW 48.46.450 (Conversion agreement to be offered—Exceptions, conditions) and 1984 c 190 s 9; and

(6) RCW 48.46.460 (Conversion agreement—Restrictions and requirements) and 1984 c 190 s 10.

*Sec. 16 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 17. Sections 1 through 15 of this act apply to all small group health benefit plans issued or renewed on or after the effective date of this section.

Passed by the House March 11, 2004.

Passed by the Senate March 11, 2004.

Approved by the Governor March 31, 2004, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 31, 2004.

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

"I am returning herewith, without my approval as to sections 5, 11, 13, 15 and 16, Engrossed Substitute House Bill No. 2460 entitled:

"AN ACT Relating to access to health insurance for small employers and their employees;"

This bill provides changes that redefine the small group health insurance market and requirements related to guaranteed renewal. It also adds factors that may be considered in the development of rates, and provides protections for those individuals not previously protected by health benefit extensions in the Consolidated Omnibus Budget Reconciliation Act (COBRA).

Section 16 would have repealed the requirement that carriers offer conversion health plans to group enrollees who lose coverage in the private insurance market. Under federal Health Insurance Portability and Accountability Act (HIPAA) requirements, conversion health plans must be issued, and must not impose restrictions relating to preexisting conditions. Sections 5, 11, 13, and 15 would have amended related statutes to ensure that they were consistent with the repeal of conversion health plans. At the request of the prime sponsor and Insurance Commissioner, I have vetoed these sections. If these provisions had been repealed, Washington would have been unable to certify that we have a functioning state alternative mechanism that complies with HIPAA.

For these reasons, I have vetoed sections 5, 11, 13, 15, and 16 of Engrossed Substitute House Bill No. 2460.

With the exception of sections 5, 11, 13, 15, and 16, Engrossed Substitute House Bill No. 2460 is approved."

CHAPTER 245

[House Bill 2647]

QUALITY AWARD COUNCIL

AN ACT Relating to the Washington quality award council; and amending RCW 43.06.335.

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

Sec. 1. RCW 43.06.335 and 2000 c 216 s I are each amended to read as follows:

(1) The Washington quality award council shall be organized as a private, nonprofit corporation, in accordance with chapter 24.03 RCW and this section.

(2) The council shall oversee the governor's Washington state quality award program. The purpose of the program is to improve the overall competitiveness of the state's economy by stimulating Washington state industries, business, and organizations to bring about measurable success through setting standards of organizational excellence, encouraging organizational self-assessment, identifying successful organizations as role models, and providing a valuable

mechanism for promoting and strengthening a commitment to continuous quality improvement in all sectors of the state's economy. The governor shall annually present the award to organizations that improve the quality of their products and services and are noteworthy examples of high-performing work organizations, as determined by the council in consultation with the governor or appointed representative.

(3) The governor shall appoint a representative to serve on the board of directors of the council.

(4) The council shall establish a board of examiners, a recognition committee, and such other committees or subgroups as it deems appropriate to carry out its responsibilities.

(5) The council may conduct such public information, research, education, and assistance programs as it deems appropriate to further quality improvement in organizations operating in the state of Washington.

(6) The council shall:

- (a) Approve and announce award recipients;
- (b) Approve guidelines to examine applicant organizations;
- (c) Approve appointment of board of examiners; and
- (d) Arrange appropriate annual awards and recognition for recipients.

~~((7) The council shall cease to exist on July 1, 2004, unless otherwise extended by law.))~~

Passed by the House February 12, 2004.

Passed by the Senate March 4, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 246

[Substitute House Bill 2575]

HORSE RACING COMMISSION—ACCOUNTS

AN ACT Relating to the management of moneys by the Washington horse racing commission; amending RCW 67.16.010, 67.16.102, and 67.16.105; reenacting and amending RCW 43.79A.040; adding new sections to chapter 67.16 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 67.16 RCW to read as follows:

Upon making a determination that an individual or licensee has violated a commission rule, the board of stewards may assess a fine, suspend or revoke a person's license, or any combination of these penalties. The commission must adopt by rule standard penalties for a rules violation. All fines collected must be deposited in the Washington horse racing commission class C purse fund account, created in section 4 of this act, and used as authorized in RCW 67.16.105(3).

NEW SECTION. Sec. 2. A new section is added to chapter 67.16 RCW to read as follows:

The Washington horse racing commission Washington bred owners' bonus fund account is created in the custody of the state treasurer. All receipts collected by the commission under RCW 67.16.102(1) must be deposited into

the account. Expenditures from the account may be used only as authorized in RCW 67.16.102. Only the secretary of the commission or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 3. A new section is added to chapter 67.16 RCW to read as follows:

The Washington horse racing commission operating account is created in the custody of the state treasurer. All receipts collected by the commission under RCW 67.16.105(2) must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for operating expenses of the commission. Investment earnings from the account must be distributed to the Washington horse racing commission class C purse fund account, created in section 4 of this act, pursuant to RCW 43.79A.040.

NEW SECTION. Sec. 4. A new section is added to chapter 67.16 RCW to read as follows:

The Washington horse racing commission class C purse fund account is created in the custody of the state treasurer. All receipts from RCW 67.16.105(3) must be deposited into the account. Expenditures from the account may be used only for the purposes provided in RCW 67.16.105(3). Only the secretary of the commission or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 5. RCW 67.16.010 and 1991 c 270 s 1 are each amended to read as follows:

~~((Unless the context otherwise requires, words and phrases as used herein shall mean:))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commission" shall mean the Washington horse racing commission, hereinafter created.

(2) "Parimutuel machine" shall mean and include both machines at the track and machines at the satellite locations, that record parimutuel bets and compute the payoff.

(3) "Person" shall mean and include individuals, firms, corporations and associations.

(4) "Race meet" shall mean and include any exhibition of thoroughbred, quarter horse, paint horse, appaloosa horse racing, arabian horse racing, or standard bred harness horse racing, where the parimutuel system is used.

~~((Singular shall include the plural, and the plural shall include the singular; and words importing one gender shall be regarded as including all other genders:))~~

Sec. 6. RCW 67.16.102 and 2001 c 53 s 1 are each amended to read as follows:

(1) Notwithstanding any other provision of chapter 67.16 RCW to the contrary the licensee shall withhold and shall pay daily to the commission, in addition to the percentages authorized by RCW 67.16.105, one percent of the gross receipts of all parimutuel machines at each race meet which sums shall, at

the end of each meet, be paid by the commission to the licensed owners of those horses finishing first, second, third and fourth Washington bred only at each meet from which the additional one percent is derived in accordance with an equitable distribution formula to be promulgated by the commission prior to the commencement of each race meet: PROVIDED, That nothing in this section shall apply to race meets which are nonprofit in nature, are of ten days or less, and have an average daily handle of less than one hundred twenty thousand dollars(~~(= PROVIDED, That))~~).

(2) ~~The additional one percent ((of the gross receipts of all parimutuel machines at each race meet and the amount retained by the commission as specified in RCW 67.16.100(1))) specified in subsection (1) of this section shall be deposited ((daily in a time deposit)) by the commission ((and)) in the Washington horse racing commission Washington bred owners' bonus fund account created in section 2 of this act. The interest derived ~~((therefrom))~~ from this account shall be distributed annually on an equal basis to those race courses at which independent race meets are held which are nonprofit in nature and are of ten days or less(~~(= PROVIDED, That))~~. Prior to receiving a payment under this ~~((section))~~ subsection any new race course shall meet the qualifications set forth in this section for a period of two years(~~(= PROVIDED, FURTHER, That said))~~. All funds distributed ((funds)) under this subsection shall be used for the purpose of maintaining and upgrading the respective racing courses and equine quartering areas of said nonprofit meets.~~

(3) The commission shall not permit the licensees to take into consideration the benefits derived from this section in establishing purses.

~~((2))~~ (4) The commission is authorized to pay at the end of the calendar year one-half of the one percent collected from a new licensee under subsection (1) of this section for reimbursement of capital construction of that new licensee's new race track for a period of fifteen years. This reimbursement does not include interest earned on that one-half of one percent and such interest shall continue to be collected and disbursed as provided in RCW 67.16.101 and subsection (1) of this section.

Sec. 7. RCW 67.16.105 and 2003 1st sp.s. c 27 s 1 are each amended to read as follows:

(1) Licensees of race meets that are nonprofit in nature and are of ten days or less shall be exempt from payment of a parimutuel tax.

(2) Licensees that do not fall under subsection (1) of this section shall withhold and pay to the commission daily for each authorized day of parimutuel wagering the following applicable percentage of all daily gross receipts from its in-state parimutuel machines:

(a) If the gross receipts of all its in-state parimutuel machines are more than fifty million dollars in the previous calendar year, the licensee shall withhold and pay to the commission daily 1.30 percent of the daily gross receipts; and

(b) If the gross receipts of all its in-state parimutuel machines are fifty million dollars or less in the previous calendar year, the licensee shall withhold and pay to the commission daily 1.803 percent of the daily gross receipts.

(3) In addition to those amounts in subsection (2) of this section, a licensee shall forward one-tenth of one percent of the daily gross receipts of all its in-state parimutuel machines to the commission for payment to those nonprofit race meets as set forth in RCW 67.16.130 and subsection (1) of this section, but said

percentage shall not be charged against the licensee. Payments to nonprofit race meets under this subsection shall be distributed on a pro rata per-race-day basis and used only for purses at race tracks that have been operating under RCW 67.16.130 and subsection (1) of this section for the five consecutive years immediately preceding the year of payment. The commission shall transfer funds generated under subsection (2) of this section equal to the difference between:

(a)(i) Funds collected under this subsection (3);

(ii) Interest earned from the Washington horse racing commission operating account created in section 3 of this act; and

(iii) Fines imposed by the board of stewards in a calendar year; and

(b) Three hundred thousand dollars((-);

and distribute that amount under this subsection (3).

(4) Beginning July 1, 1999, at the conclusion of each authorized race meet, the commission shall calculate the mathematical average daily gross receipts of parimutuel wagering that is conducted only at the physical location of the live race meet at those race meets of licensees with gross receipts of all their in-state parimutuel machines of more than fifty million dollars. Such calculation shall include only the gross parimutuel receipts from wagering occurring on live racing dates, including live racing receipts and receipts derived from one simulcast race card that is conducted only at the physical location of the live racing meet, which, for the purposes of this subsection, is "the handle." If the calculation exceeds eight hundred eighty-six thousand dollars, the licensee shall within ten days of receipt of written notification by the commission forward to the commission a sum equal to the product obtained by multiplying 0.6 percent by the handle. Sums collected by the commission under this subsection shall be forwarded on the next business day following receipt thereof to the state treasurer to be deposited in the fair fund created in RCW 15.76.115.

Sec. 8. RCW 43.79A.040 and 2003 c 403 s 9, 2003 c 313 s 10, 2003 c 191 s 7, 2003 c 148 s 15, 2003 c 92 s 8, and 2003 c 19 s 12 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the

period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the Washington international exchange scholarship endowment fund, the developmental disabilities endowment trust fund, the energy account, the fair fund, the fruit and vegetable inspection account, the game farm alternative account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and fire fighters' plan 2 expense fund, the local tourism promotion account, the produce railcar pool account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, ~~((and))~~ the investing in innovation account, the Washington horse racing commission Washington bred owners' bonus fund account, the Washington horse racing commission class C purse fund account, and the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account). However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House February 11, 2004.

Passed by the Senate March 3, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 247

[Substitute House Bill 2455]

FINANCIAL LITERACY

AN ACT Relating to financial literacy; adding a new section to chapter 28A.230 RCW; adding a new section to chapter 28A.300 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature recognizes that the average high school student lacks a basic knowledge of personal finance. In addition, the legislature recognizes the damaging effects of not properly preparing youth for the financial challenges of modern life, including bankruptcy, poor retirement planning, unmanageable debt, and a lower standard of living for Washington families.

The legislature finds that the purpose of the state's system of public education is to help students acquire the skills and knowledge they will need to be productive and responsible 21st century citizens. The legislature further finds that responsible citizenship includes an ability to make wise financial decisions. The legislature further finds that financial literacy could easily be included in lessons, courses, and projects that demonstrate each student's understanding of the state's four learning goals, including goal four: Understanding the importance of work and how performance, effort, and decisions directly affect future opportunities.

The legislature intends to assist school districts in their efforts to ensure that students are financially literate through identifying critical financial literacy skills and knowledge, providing information on instructional materials, and creating a public-private partnership to help provide instructional tools and professional development to school districts that wish to increase the financial literacy of their students.

NEW SECTION. Sec. 2. (1) A financial literacy public-private partnership is established, composed of up to four members representing the legislature, one from and appointed by the office of the superintendent of public instruction, one from and appointed by the department of financial institutions, up to four from the financial services sector, and four educators. One or two members of the senate, one of whom is a member of the senate committee on financial services, insurance and housing, shall be appointed by the president of the senate. One or two members of the house of representatives, one of whom is a member of the house committee on financial institutions and insurance, shall be appointed by the speaker of the house of representatives. The superintendent of public instruction shall appoint the members from the financial services sector and educator members. The chair of the partnership shall be selected by the members of the partnership.

(2) To the extent funds are appropriated or are available for this purpose, technical and logistical support may be provided by the office of the superintendent of public instruction, the organizations composing the partnership, and other participants in the financial literacy public-private partnership. The superintendent of public instruction shall compile the initial list of members and convene the first meeting of the partnership.

(3) The members of the committee shall be appointed by July 1, 2004.

(4) Legislative members of the partnership shall receive per diem and travel under RCW 44.04.120.

(5) Travel and other expenses of members of the partnership shall be provided by the agency, association, or organization that member represents.

NEW SECTION. Sec. 3. (1) By September 30, 2004, the financial literacy public-private partnership shall adopt a definition of financial literacy to be used in educational efforts.

(2) By June 30, 2005, the financial literacy public-private partnership shall identify strategies to increase the financial literacy of public school students in our state. To the extent funds are available, strategies to be considered by the partnership shall include, but not be limited to:

(a) Identifying and making available to school districts:

(i) Important financial literacy skills and knowledge;

(ii) Ways in which teachers at different grade levels may integrate financial literacy in mathematics, social studies, and other course content areas;

(iii) Instructional materials and programs, including schoolwide programs, that include the important financial literacy skills and knowledge;

(iv) Assessments and other outcome measures that schools and communities may use to determine whether students are financially literate; and

(v) Other strategies for expanding and increasing the quality of financial literacy instruction in public schools, including professional development for teachers;

(b) Developing a structure and set of operating principles for the financial literacy public-private partnership to assist interested school districts in improving the financial literacy of their students by providing such things as financial literacy instructional materials and professional development; and

(c) Providing a report to the governor, the house and senate financial institutions and education committees of the legislature, the superintendent of public instruction, the state board of education, and education stakeholder groups, on the results of work of the financial literacy public-private partnership. A final report shall be submitted to the same parties by June 30, 2007.

****NEW SECTION. Sec. 4. A new section is added to chapter 28A.230 RCW to read as follows:***

(1) To the extent funds are appropriated or are available for this purpose, the superintendent of public instruction and other members of the partnership created in section 2 of this act, shall make available to school districts the list of identified financial literacy skills and knowledge, instructional materials, assessments, and other relevant information.

(2) Each school district is encouraged to provide its students with an opportunity to master the financial literacy skills and knowledge developed under section 3 of this act.

(3) For the purposes of this act, it is unnecessary to evaluate and apply the office of the superintendent of public instruction essential academic learning requirements, or to develop grade level expectations.

****Sec. 4 was vetoed. See message at end of chapter.***

NEW SECTION. Sec. 5. The task of the financial literacy public-private partnership is to seek out and determine the best methods of equipping students with the knowledge and skills they need, before they become self-supporting, in order for them to make critical decisions regarding their personal finances. The components of personal financial literacy examined shall include, at a minimum, consumer financial education, personal finance, and personal credit. The partnership shall identify the types of outcome measures expected from participating students, in accordance with the definitions and outcomes developed under section 3 of this act.

NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.300 RCW to read as follows:

The Washington financial literacy public-private partnership account is hereby created in the custody of the state treasurer. The purpose of the account is to support the financial literacy public-private partnership, and to provide financial literacy opportunities for students and financial literacy professional development opportunities for the teachers providing those educational opportunities. Revenues to the account may include gifts from the private sector, federal funds, and any appropriations made by the legislature or other sources. Grants and their administration shall be paid from the account. Only the superintendent of public instruction or the superintendent's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec. 7.** The financial literacy public-private partnership expires June 30, 2007.

Passed by the House March 10, 2004.

Passed by the Senate March 4, 2004.

Approved by the Governor March 31, 2004, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 31, 2004.

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

"I am returning herewith, without my approval as to section 4, Substitute House Bill No. 2455 entitled:

"AN ACT Relating to financial literacy;"

This bill creates a public-private partnership to define skill and knowledge components of financial literacy for students, identify appropriate curriculum materials, develop appropriate assessments, and articulate other program outcomes.

Creating a financially literate citizenry is a worthy goal. However, we must keep in mind the significant challenges already underway in our schools and stay focused on ensuring our students achieve the academic requirements we have established in the basics of reading, writing, mathematics and science. Additionally, we must work to maintain strong programs in the social studies, arts, and health and fitness.

This bill sets forth an ambitious series of tasks for developing financial literacy. Section 4 would have directed the Office of the Superintendent of Public Instruction (OSPI) to perform certain duties, encouraged school districts to implement opportunities for students in financial literacy, and provided that the OSPI need not include financial literacy as an essential academic learning requirement or grade level expectation.

Before requiring a state agency to provide technical assistance to school districts and encouraging districts to teach and assess a new curricular topic, it is prudent for the development work to be completed and appropriately reviewed. I strongly believe this is a topic that could find a lasting place in our schools if it is incorporated into one of the already acknowledged subject areas. I would direct the work of the partnership to the language in section 3(2) that addresses this focus.

For these reasons, I have vetoed section 4 of Substitute House Bill No. 2455.

With the exception of section 4, Substitute House Bill No. 2455 is approved."

CHAPTER 248

[Substitute House Bill 2621]

SHELLFISH LICENSES

AN ACT Relating to personal use licenses for shellfish harvest; and amending RCW 77.32.520, 77.32.555, 77.32.070, and 77.12.170.

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

Sec. 1. RCW 77.32.520 and 2000 c 107 s 27 are each amended to read as follows:

(1) A personal use shellfish and seaweed license is required for all persons other than residents or nonresidents under fifteen years of age to fish for, take, dig for, or possess seaweed or shellfish, including razor clams, for personal use from state waters or offshore waters including national park beaches.

(2) A razor clam license allows a person to harvest only razor clams for personal use from state waters, including national park beaches.

(3) The fees for annual personal use shellfish and seaweed licenses are:

(a) For a resident fifteen years of age or older, seven dollars;

(b) For a nonresident fifteen years of age or older, twenty dollars; and

(c) For a senior, five dollars.

~~((3) The license fee for a two-day personal use shellfish and seaweed license is six dollars for residents or nonresidents fifteen years of age or older.))~~

(4) The fee for an annual razor clam license is five dollars and fifty cents for residents and eleven dollars for nonresidents.

(5) The fee for a three-day razor clam license is three dollars and fifty cents for both residents and nonresidents.

(6) A personal use shellfish and seaweed license ((shall)) or razor clam license must be visible on the licensee while harvesting shellfish or seaweed.

Sec. 2. RCW 77.32.555 and 2003 c 263 s 2 are each amended to read as follows:

In addition to the fees authorized in this chapter, the department shall include a surcharge to fund biotoxin testing and monitoring by the department of health of beaches used for recreational shellfishing, and to fund monitoring by the Olympic region harmful algal bloom program of the Olympic natural resources center at the University of Washington. A surcharge of three dollars applies to resident and nonresident shellfish and seaweed licenses as authorized by RCW 77.32.520~~((2))~~ (3) (a) and (b); ~~((and))~~ a surcharge of two dollars applies to resident and nonresident adult combination licenses as authorized by RCW 77.32.470(2)(a); a surcharge of two dollars applies to annual resident and nonresident razor clam licenses as authorized by RCW 77.32.520(4); and a surcharge of one dollar applies to the three-day razor clam license authorized by RCW 77.32.520(5). Amounts collected from these surcharges must be deposited in the general fund—local account managed by the department of health, except that one hundred fifty thousand dollars per year shall be deposited in the general fund—local account managed by the University of Washington.

Amounts in excess of the annual costs of the department of health recreational shellfish testing and monitoring program shall be transferred to the general fund by the department of health.

Sec. 3. RCW 77.32.070 and 1998 c 191 s 11 are each amended to read as follows:

Applicants for a license, permit, tag, or stamp shall furnish the information required by the director. However, the director may not require the purchaser of a razor clam license under RCW 77.32.520 to provide any personal information except for proof of residency. The commission may adopt rules requiring licenses or permittees to keep records and make reports concerning the taking of fish, shellfish, and wildlife.

Sec. 4. RCW 77.12.170 and 2003 c 317 s 3 are each amended to read as follows:

(1) There is established in the state treasury the state wildlife fund which consists of moneys received from:

(a) Rentals or concessions of the department;

(b) The sale of real or personal property held for department purposes;

(c) The sale of licenses, permits, tags, and stamps required by chapter 77.32 RCW and RCW 77.65.490, except annual resident adult saltwater and all annual razor clam and shellfish licenses, which shall be deposited into the state general fund;

(d) Fees for informational materials published by the department;

(e) Fees for personalized vehicle license plates as provided in chapter 46.16 RCW;

(f) Articles or wildlife sold by the director under this title;

(g) Compensation for damage to department property or wildlife losses or contributions, gifts, or grants received under RCW 77.12.320;

(h) Excise tax on anadromous game fish collected under chapter 82.27 RCW;

(i) The sale of personal property seized by the department for fish, shellfish, or wildlife violations;

(j) The department's share of revenues from auctions and raffles authorized by the commission; and

(k) The sale of watchable wildlife decals under RCW 77.32.560.

(2) State and county officers receiving any moneys listed in subsection (1) of this section shall deposit them in the state treasury to be credited to the state wildlife fund.

Passed by the House February 13, 2004.

Passed by the Senate March 5, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 249

[Engrossed Substitute Senate Bill 5428]

DRIVER'S LICENSES—RENEWAL

AN ACT Relating to renewal of driver's licenses and identicards by alternative means; amending RCW 46.20.035, 46.20.117, 46.20.120, 46.20.155, 46.25.080, and 46.01.235; reenacting and amending RCW 46.20.055 and 46.20.070; and adding a new section to chapter 46.04 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 46.04 RCW to read as follows:

"Electronic commerce" may include, but is not limited to, transactions conducted over the Internet or by telephone or other electronic means.

Sec. 2. RCW 46.20.035 and 1999 c 6 s 8 are each amended to read as follows:

The department may not issue an identicard or a Washington state driver's license that is valid for identification purposes unless the applicant meets the identification requirements of subsection (1), (2), or (3) of this section.

(1) A driver's license or identicard applicant must provide the department with at least one of the following pieces of valid identifying documentation that contains the signature and a photograph of the applicant:

(a) A valid or recently expired driver's license or instruction permit that includes the date of birth of the applicant;

(b) A Washington state identicard or an identification card issued by another state;

(c) An identification card issued by the United States, a state, or an agency of either the United States or a state, of a kind commonly used to identify the members or employees of the government agency;

(d) A military identification card;

(e) A United States passport; or

(f) An Immigration and Naturalization Service form.

(2) An applicant who is a minor may establish identity by providing an affidavit of the applicant's parent or guardian. The parent or guardian must accompany the minor and display or provide:

(a) At least one piece of documentation in subsection (1) of this section establishing the identity of the parent or guardian; and

(b) Additional documentation establishing the relationship between the parent or guardian and the applicant.

(3) A person unable to provide identifying documentation as specified in subsection (1) or (2) of this section may request that the department review other available documentation in order to ascertain identity. The department may waive the requirement if it finds that other documentation clearly establishes the identity of the applicant.

(4) An identicard or a driver's license that includes a photograph that has been renewed by mail or by electronic commerce is valid for identification purposes if the applicant met the identification requirements of subsection (1), (2), or (3) of this section at the time of previous issuance.

~~(5)~~ (5) The form of an applicant's name, as established under this section, ~~((must be))~~ is the person's name of record for the purposes of this chapter.

~~((5))~~ (6) If the applicant is unable to prove his or her identity under this section, the department shall plainly label the license "not valid for identification purposes."

Sec. 3. RCW 46.20.055 and 2002 c 352 s 10 and 2002 c 195 s 2 are each reenacted and amended to read as follows:

(1) **Driver's instruction permit.** The department may issue a driver's instruction permit with or without a photograph to an applicant who has successfully passed all parts of the examination other than the driving test, provided the information required by RCW 46.20.091, paid a fee of fifteen dollars, and meets the following requirements:

(a) Is at least fifteen and one-half years of age; or

(b) Is at least fifteen years of age and:

(i) Has submitted a proper application; and

(ii) Is enrolled in a traffic safety education program offered, approved, and accredited by the superintendent of public instruction or offered by a (~~driving [driver]~~) driver training school licensed and inspected by the department of licensing under chapter 46.82 RCW, that includes practice driving.

(2) **Waiver of written examination for instruction permit.** The department may waive the written examination, if, at the time of application, an applicant is enrolled in:

(a) A traffic safety education course as defined by RCW 28A.220.020(2); or

(b) A course of instruction offered by a licensed driver training school as defined by RCW 46.82.280(1).

The department may require proof of registration in such a course as it deems necessary.

(3) **Effect of instruction permit.** A person holding a driver's instruction permit may drive a motor vehicle, other than a motorcycle, upon the public highways if:

(a) The person has immediate possession of the permit; and

(b) An approved instructor, or a licensed driver with at least five years of driving experience, occupies the seat beside the driver.

(4) **Term of instruction permit.** A driver's instruction permit is valid for one year from the date of issue.

(a) The department may issue one additional one-year permit.

(b) The department may issue a third driver's permit if it finds after an investigation that the permittee is diligently seeking to improve driving proficiency.

(c) A person applying to renew an instruction permit must submit the application to the department in person.

Sec. 4. RCW 46.20.070 and 2002 c 352 s 11 and 2002 c 195 s 3 are each reenacted and amended to read as follows:

(1) **Agricultural driving permit authorized.** The director may issue a juvenile agricultural driving permit to a person under the age of eighteen years if:

(a) The application is signed by the applicant and the applicant's father, mother, or legal guardian;

(b) The applicant has passed the driving examination required by RCW 46.20.120;

(c) The department has investigated the applicant's need for the permit and determined that the need justifies issuance;

(d) The department has determined the applicant is capable of operating a motor vehicle without endangering himself or herself or other persons and property; and

(e) The applicant has paid a fee of fifteen dollars.

The permit must contain a photograph of the person.

(2) **Effect of agricultural driving permit.** (a) The permit authorizes the holder to:

(i) Drive a motor vehicle on the public highways of this state in connection with farm work. The holder may drive only within a restricted farming locality described on the permit; and

(ii) Participate in the classroom portion of a traffic safety education course authorized under RCW 28A.220.030 or the classroom portion of a traffic safety education course offered by a driver training school licensed and inspected by the department of licensing under chapter 46.82 RCW offered in the community where the holder resides.

(b) The director may transfer the permit from one farming locality to another. A transfer is not a renewal of the permit.

(3) **Term and renewal of agricultural driving permit.** An agricultural driving permit expires one year from the date of issue.

(a) A person under the age of eighteen who holds a permit may renew the permit by paying a fee of fifteen dollars.

(b) A person applying to renew an agricultural driving permit must submit the application to the department in person.

(c) An agricultural driving permit is invalidated when a permittee attains age eighteen. In order to drive a motor vehicle on a highway he or she must obtain a motor vehicle driver's license under this chapter.

(4) **Suspension, revocation, or cancellation.** The director has sole discretion to suspend, revoke, or cancel a juvenile agricultural driving permit if:

(a) The permittee has been found to have committed an offense that requires mandatory suspension or revocation of a driver's license; or

(b) The director is satisfied that the permittee has violated the permit's restrictions.

Sec. 5. RCW 46.20.117 and 2002 c 352 s 12 are each amended to read as follows:

(1) **Issuance.** The department shall issue an identicard, containing a picture, if the applicant:

(a) Does not hold a valid Washington driver's license;

(b) Proves his or her identity as required by RCW 46.20.035; and

(c) Pays the required fee. The fee is fifteen dollars unless an applicant is a recipient of continuing public assistance grants under Title 74 RCW, who is referred in writing by the secretary of social and health services. For those persons the fee must be the actual cost of production of the identicard.

(2) **Design and term.** The identicard must:

(a) Be distinctly designed so that it will not be confused with the official driver's license; and

(b) Expire on the fifth anniversary of the applicant's birthdate after issuance.

(3) **Renewal.** An application for identicard renewal may be submitted by means of:

(a) Personal appearance before the department; or

(b) Mail or electronic commerce, if permitted by rule of the department and if the applicant did not renew his or her identicard by mail or by electronic commerce when it last expired. However, the department may accept an application for renewal of an identicard submitted by means of mail or electronic commerce only if specific authority and funding is provided for this purpose by June 30, 2004, in the omnibus transportation appropriations act.

An identicard may not be renewed by mail or by electronic commerce unless the renewal issued by the department includes a photograph of the identicard holder.

(4) **Cancellation.** The department may cancel an identicard if the holder of the identicard used the card or allowed others to use the card in violation of RCW 46.20.0921.

Sec. 6. RCW 46.20.120 and 2002 c 352 s 13 are each amended to read as follows:

An applicant for a new or renewed driver's license must successfully pass a driver licensing examination to qualify for a driver's license. The department shall give examinations at places and times reasonably available to the people of this state.

(1) **Waiver.** The department may waive:

(a) All or any part of the examination of any person applying for the renewal of a driver's license unless the department determines that the applicant is not qualified to hold a driver's license under this title; or

(b) The actual demonstration of the ability to operate a motor vehicle if the applicant:

(i) Surrenders a valid driver's license issued by the person's previous home state; and

(ii) Is otherwise qualified to be licensed.

(2) **Fee.** Each applicant for a new license must pay an examination fee of ten dollars.

(a) The examination fee is in addition to the fee charged for issuance of the license.

(b) "New license" means a license issued to a driver:

(i) Who has not been previously licensed in this state; or

(ii) Whose last previous Washington license has been expired for more than five years.

(3) An application for driver's license renewal may be submitted by means of:

(a) Personal appearance before the department; or

(b) Mail or electronic commerce, if permitted by rule of the department and if the applicant did not renew his or her license by mail or by electronic commerce when it last expired. However, the department may accept an application for renewal of a driver's license submitted by means of mail or electronic commerce only if specific authority and funding is provided for this purpose by June 30, 2004, in the omnibus transportation appropriations act.

(4) A person whose license expired or will expire ~~((on or after January 1, 1998,))~~ while he or she ~~((was or))~~ is living outside the state, may:

(a) Apply to the department to extend the validity of his or her license for no more than twelve months. If the person establishes to the department's satisfaction that he or she is unable to return to Washington before the date his or her license expires, the department shall extend the person's license. The department may grant consecutive extensions, but in no event may the cumulative total of extensions exceed twelve months. An extension granted under this section does not change the expiration date of the license for purposes of RCW 46.20.181. The department shall charge a fee of five dollars for each license extension;

(b) Apply to the department to renew his or her license by mail or, if permitted by rule of the department, by electronic commerce even if subsection (3)(b) of this section would not otherwise allow renewal by that means. If the person establishes to the department's satisfaction that he or she is unable to return to Washington within twelve months of the date that his or her license expires, the department shall renew the person's license by mail or, if permitted by rule of the department, by electronic commerce.

(5) If a qualified person (~~qualifies for a mail-in~~) submits an application for renewal under subsection (3)(b) or (4)(b) of this section, he or she is not required to pass an examination nor provide an updated photograph. (~~He or she must, however, pay the fee required by RCW 46.20.181 plus an additional five-dollar mail-in renewal fee.~~) A license renewed by mail or by electronic commerce that does not include a photograph of the licensee must be labeled "not valid for identification purposes."

~~((4) If a person's driver's license is extended or renewed under subsection (3) of this section while he or she is outside the state, he or she must submit to the examination required under this section within sixty days of returning to this state. The department will not assess a penalty or examination fee for the examination.))~~

Sec. 7. RCW 46.20.155 and 2001 c 41 s 14 are each amended to read as follows:

(1) Before issuing an original license or (~~identification card~~) identocard or renewing a license or (~~identification card~~) identocard under this chapter, the licensing agent shall determine if the applicant wants to register to vote or transfer his or her voter registration by asking the following question:

"Do you want to register to vote or transfer your voter registration?"

If the applicant chooses to register or transfer a registration, the agent shall state the following:

"I would like to remind you that you must be a United States citizen and at least eighteen years of age in order to vote."

The agent shall then provide the applicant with a voter registration form and instructions and shall record that the applicant has requested to register to vote or transfer a voter registration.

(2) The department shall establish a procedure that substantially meets the requirements of subsection (1) of this section when permitting an applicant to renew a license or identocard by mail or by electronic commerce.

Sec. 8. RCW 46.25.080 and 1996 c 30 s 2 are each amended to read as follows:

(1) The commercial driver's license must be marked "commercial driver's license" or "CDL," and must be, to the maximum extent practicable, tamperproof. It must include, but not be limited to, the following information:

- (a) The name and residence address of the person;
- (b) The person's color photograph;
- (c) A physical description of the person including sex, height, weight, and eye color;
- (d) Date of birth;

(e) The person's Social Security number or any number or identifier deemed appropriate by the department;

(f) The person's signature;

(g) The class or type of commercial motor vehicle or vehicles that the person is authorized to drive, together with any endorsements or restrictions;

(h) The name of the state; and

(i) The dates between which the license is valid.

(2) Commercial driver's licenses may be issued with the classifications, endorsements, and restrictions set forth in this subsection. The holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles and vehicles that require an endorsement, unless the proper endorsement appears on the license.

(a) Licenses may be classified as follows:

(i) Class A is a combination of vehicles with a gross combined weight rating (GCWR) of 26,001 pounds or more, if the GVWR of the vehicle being towed is in excess of 10,000 pounds.

(ii) Class B is a single vehicle with a GVWR of 26,001 pounds or more, and any such vehicle towing a vehicle not in excess of 10,000 pounds.

(iii) Class C is a single vehicle with a GVWR of less than 26,001 pounds or any such vehicle towing a vehicle with a GVWR not in excess of 10,000 pounds consisting of:

(A) Vehicles designed to transport sixteen or more passengers, including the driver; or

(B) Vehicles used in the transportation of hazardous materials that requires the vehicle to be identified with a placard under 49 C.F.R., part 172, subpart F.

(b) The following endorsements and restrictions may be placed on a license:

(i) "H" authorizes the driver to drive a vehicle transporting hazardous materials.

(ii) "K" restricts the driver to vehicles not equipped with air brakes.

(iii) "T" authorizes driving double and triple trailers.

(iv) "P1" authorizes driving all vehicles carrying passengers.

(v) "P2" authorizes driving vehicles with a GVWR of less than 26,001 pounds carrying sixteen or more passengers, including the driver.

(vi) "N" authorizes driving tank vehicles.

(vii) "X" represents a combination of hazardous materials and tank vehicle endorsements.

The license may be issued with additional endorsements and restrictions as established by rule of the director.

(3) All school bus drivers must have either a "P1" or "P2" endorsement depending on the GVWR of the school bus being driven.

(4) Before issuing a commercial driver's license, the department shall obtain driving record information through the commercial driver's license information system, the national driver register, and from the current state of record.

(5) Within ten days after issuing a commercial driver's license, the department must notify the commercial driver's license information system of that fact, and provide all information required to ensure identification of the person.

(6) A commercial driver's license shall expire in the same manner as provided in RCW 46.20.181.

(7) When applying for renewal of a commercial driver's license, the applicant shall:

(a) Complete the application form required by RCW 46.25.070(1), providing updated information and required certifications((-);

(b) Submit the application to the department in person; and

(c) If the applicant wishes to retain a hazardous materials endorsement, (~~the applicant shall~~) take and pass the written test for a hazardous materials endorsement.

Sec. 9. RCW 46.01.235 and 1999 c 271 s 1 are each amended to read as follows:

The department may adopt necessary rules and procedures to allow use of credit and debit cards for payment of fees and excise taxes to the department and its agents or subagents related to the licensing of drivers, the issuance of identicards, and vehicle and vessel titling and registration. The department may establish a convenience fee to be paid by the credit or debit card user whenever a credit or debit card is chosen as the payment method. The fee must be sufficient to offset the charges imposed on the department and its agents and subagents by credit and debit card companies. In no event may the use of credit or debit cards authorized by this section create a loss of revenue to the state.

The use of a personal credit card does not rely upon the credit of the state as prohibited by Article VIII, section 5 of the state Constitution.

Passed by the Senate February 17, 2004.

Passed by the House March 10, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 250

[Senate Bill 6614]

UNAUTHORIZED IMPOUNDS—DAMAGES

AN ACT Relating to damages for unauthorized impounds; and amending RCW 46.55.120.

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

Sec. 1. RCW 46.55.120 and 2003 c 177 s 2 are each amended to read as follows:

(1) Vehicles or other items of personal property registered or titled with the department that are impounded by registered tow truck operators pursuant to RCW 46.55.080, 46.55.085, 46.55.113, or 9A.88.140 may be redeemed only under the following circumstances:

(a) Only the legal owner, the registered owner, a person authorized in writing by the registered owner or the vehicle's insurer, a person who is determined and verified by the operator to have the permission of the registered owner of the vehicle or other item of personal property registered or titled with the department, or one who has purchased a vehicle or item of personal property registered or titled with the department from the registered owner who produces proof of ownership or written authorization and signs a receipt therefor, may redeem an impounded vehicle or items of personal property registered or titled

with the department. In addition, a vehicle impounded because the operator is in violation of RCW 46.20.342(1)(c) shall not be released until a person eligible to redeem it under this subsection (1)(a) satisfies the requirements of (e) of this subsection, including paying all towing, removal, and storage fees, notwithstanding the fact that the hold was ordered by a government agency. If the department's records show that the operator has been convicted of a violation of RCW 46.20.342 or a similar local ordinance within the past five years, the vehicle may be held for up to thirty days at the written direction of the agency ordering the vehicle impounded. A vehicle impounded because the operator is arrested for a violation of RCW 46.20.342 may be released only pursuant to a written order from the agency that ordered the vehicle impounded or from the court having jurisdiction. An agency may issue a written order to release pursuant to a provision of an applicable state agency rule or local ordinance authorizing release on the basis of the following:

(i) Economic or personal hardship to the spouse of the operator, taking into consideration public safety factors, including the operator's criminal history and driving record; or

(ii) The owner of the vehicle was not the driver, the owner did not know that the driver's license was suspended or revoked, and the owner has not received a prior release under this subsection or RCW 46.55.113(3).

In order to avoid discriminatory application, other than for the reasons for release set forth in (a)(i) and (ii) of this subsection, an agency shall, under a provision of an applicable state agency rule or local ordinance, deny release in all other circumstances without discretion.

If a vehicle is impounded because the operator is in violation of RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty days at the written direction of the agency ordering the vehicle impounded. However, if the department's records show that the operator has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a similar local ordinance within the past five years, the vehicle may be held at the written direction of the agency ordering the vehicle impounded for up to sixty days, and for up to ninety days if the operator has two or more such prior offenses. If a vehicle is impounded because the operator is arrested for a violation of RCW 46.20.342, the vehicle may not be released until a person eligible to redeem it under this subsection (1)(a) satisfies the requirements of (e) of this subsection, including paying all towing, removal, and storage fees, notwithstanding the fact that the hold was ordered by a government agency.

(b) If the vehicle is directed to be held for a suspended license impound, a person who desires to redeem the vehicle at the end of the period of impound shall within five days of the impound at the request of the tow truck operator pay a security deposit to the tow truck operator of not more than one-half of the applicable impound storage rate for each day of the proposed suspended license impound. The tow truck operator shall credit this amount against the final bill for removal, towing, and storage upon redemption. The tow truck operator may accept other sufficient security in lieu of the security deposit. If the person desiring to redeem the vehicle does not pay the security deposit or provide other security acceptable to the tow truck operator, the tow truck operator may process and sell at auction the vehicle as an abandoned vehicle within the normal time limits set out in RCW 46.55.130(1). The security deposit required by this

section may be paid and must be accepted at any time up to twenty-four hours before the beginning of the auction to sell the vehicle as abandoned. The registered owner is not eligible to purchase the vehicle at the auction, and the tow truck operator shall sell the vehicle to the highest bidder who is not the registered owner.

(c) Notwithstanding (b) of this subsection, a rental car business may immediately redeem a rental vehicle it owns by payment of the costs of removal, towing, and storage, whereupon the vehicle will not be held for a suspended license impound.

(d) Notwithstanding (b) of this subsection, a motor vehicle dealer or lender with a perfected security interest in the vehicle may redeem or lawfully repossess a vehicle immediately by payment of the costs of removal, towing, and storage, whereupon the vehicle will not be held for a suspended license impound. A motor vehicle dealer or lender with a perfected security interest in the vehicle may not knowingly and intentionally engage in collusion with a registered owner to repossess and then return or resell a vehicle to the registered owner in an attempt to avoid a suspended license impound. However, this provision does not preclude a vehicle dealer or a lender with a perfected security interest in the vehicle from repossessing the vehicle and then selling, leasing, or otherwise disposing of it in accordance with chapter 62A.9A RCW, including providing redemption rights to the debtor under RCW 62A.9A-623. If the debtor is the registered owner of the vehicle, the debtor's right to redeem the vehicle under chapter 62A.9A RCW is conditioned upon the debtor obtaining and providing proof from the impounding authority or court having jurisdiction that any fines, penalties, and forfeitures owed by the registered owner, as a result of the suspended license impound, have been paid, and proof of the payment must be tendered to the vehicle dealer or lender at the time the debtor tenders all other obligations required to redeem the vehicle. Vehicle dealers or lenders are not liable for damages if they rely in good faith on an order from the impounding agency or a court in releasing a vehicle held under a suspended license impound.

(e) The vehicle or other item of personal property registered or titled with the department shall be released upon the presentation to any person having custody of the vehicle of commercially reasonable tender sufficient to cover the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing any such vehicle, with credit being given for the amount of any security deposit paid under (b) of this subsection. In addition, if a vehicle is impounded because the operator was arrested for a violation of RCW 46.20.342 or 46.20.345 and was being operated by the registered owner when it was impounded under local ordinance or agency rule, it must not be released to any person until the registered owner establishes with the agency that ordered the vehicle impounded or the court having jurisdiction that any penalties, fines, or forfeitures owed by him or her have been satisfied. Registered tow truck operators are not liable for damages if they rely in good faith on an order from the impounding agency or a court in releasing a vehicle held under a suspended license impound. Commercially reasonable tender shall include, without limitation, cash, major bank credit cards issued by financial institutions, or personal checks drawn on Washington state branches of financial institutions if accompanied by two pieces of valid identification, one of which may be required by the operator to have a photograph. If the towing firm cannot

determine through the customer's bank or a check verification service that the presented check would be paid by the bank or guaranteed by the service, the towing firm may refuse to accept the check. Any person who stops payment on a personal check or credit card, or does not make restitution within ten days from the date a check becomes insufficient due to lack of funds, to a towing firm that has provided a service pursuant to this section or in any other manner defrauds the towing firm in connection with services rendered pursuant to this section shall be liable for damages in the amount of twice the towing and storage fees, plus costs and reasonable attorney's fees.

(2)(a) The registered tow truck operator shall give to each person who seeks to redeem an impounded vehicle, or item of personal property registered or titled with the department, written notice of the right of redemption and opportunity for a hearing, which notice shall be accompanied by a form to be used for requesting a hearing, the name of the person or agency authorizing the impound, and a copy of the towing and storage invoice. The registered tow truck operator shall maintain a record evidenced by the redeeming person's signature that such notification was provided.

(b) Any person seeking to redeem an impounded vehicle under this section has a right to a hearing in the district or municipal court for the jurisdiction in which the vehicle was impounded to contest the validity of the impoundment or the amount of towing and storage charges. The district court has jurisdiction to determine the issues involving all impoundments including those authorized by the state or its agents. The municipal court has jurisdiction to determine the issues involving impoundments authorized by agents of the municipality. Any request for a hearing shall be made in writing on the form provided for that purpose and must be received by the appropriate court within ten days of the date the opportunity was provided for in subsection (2)(a) of this section and more than five days before the date of the auction. At the time of the filing of the hearing request, the petitioner shall pay to the court clerk a filing fee in the same amount required for the filing of a suit in district court. If the hearing request is not received by the court within the ten-day period, the right to a hearing is waived and the registered owner is liable for any towing, storage, or other impoundment charges permitted under this chapter. Upon receipt of a timely hearing request, the court shall proceed to hear and determine the validity of the impoundment.

(3)(a) The court, within five days after the request for a hearing, shall notify the registered tow truck operator, the person requesting the hearing if not the owner, the registered and legal owners of the vehicle or other item of personal property registered or titled with the department, and the person or agency authorizing the impound in writing of the hearing date and time.

(b) At the hearing, the person or persons requesting the hearing may produce any relevant evidence to show that the impoundment, towing, or storage fees charged were not proper. The court may consider a written report made under oath by the officer who authorized the impoundment in lieu of the officer's personal appearance at the hearing.

(c) At the conclusion of the hearing, the court shall determine whether the impoundment was proper, whether the towing or storage fees charged were in compliance with the posted rates, and who is responsible for payment of the

fees. The court may not adjust fees or charges that are in compliance with the posted or contracted rates.

(d) If the impoundment is found proper, the impoundment, towing, and storage fees as permitted under this chapter together with court costs shall be assessed against the person or persons requesting the hearing, unless the operator did not have a signed and valid impoundment authorization from a private property owner or an authorized agent.

(e) If the impoundment is determined to be in violation of this chapter, then the registered and legal owners of the vehicle or other item of personal property registered or titled with the department shall bear no impoundment, towing, or storage fees, and any security shall be returned or discharged as appropriate, and the person or agency who authorized the impoundment shall be liable for any towing, storage, or other impoundment fees permitted under this chapter. The court shall enter judgment in favor of the registered tow truck operator against the person or agency authorizing the impound for the impoundment, towing, and storage fees paid. In addition, the court shall enter judgment in favor of the registered and legal owners of the vehicle, or other item of personal property registered or titled with the department, for the amount of the filing fee required by law for the impound hearing petition as well as reasonable damages for loss of the use of the vehicle during the time the same was impounded(~~(, for not less than fifty dollars per day.))~~) against the person or agency authorizing the impound. However, if an impoundment arising from an alleged violation of RCW 46.20.342 or 46.20.345 is determined to be in violation of this chapter, then the law enforcement officer directing the impoundment and the government employing the officer are not liable for damages if the officer relied in good faith and without gross negligence on the records of the department in ascertaining that the operator of the vehicle had a suspended or revoked driver's license. If any judgment entered is not paid within fifteen days of notice in writing of its entry, the court shall award reasonable attorneys' fees and costs against the defendant in any action to enforce the judgment. Notice of entry of judgment may be made by registered or certified mail, and proof of mailing may be made by affidavit of the party mailing the notice. Notice of the entry of the judgment shall read essentially as follows:

TO:

YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the Court located at in the sum of \$., in an action entitled, Case No. YOU ARE FURTHER NOTIFIED that attorneys fees and costs will be awarded against you under RCW . . . if the judgment is not paid within 15 days of the date of this notice.

DATED this day of, (year) . . .

Signature

Typed name and address
of party mailing notice

(4) Any impounded abandoned vehicle or item of personal property registered or titled with the department that is not redeemed within fifteen days of mailing of the notice of custody and sale as required by RCW 46.55.110(3)

shall be sold at public auction in accordance with all the provisions and subject to all the conditions of RCW 46.55.130. A vehicle or item of personal property registered or titled with the department may be redeemed at any time before the start of the auction upon payment of the applicable towing and storage fees.

Passed by the Senate February 17, 2004.
Passed by the House March 10, 2004.
Approved by the Governor March 31, 2004.
Filed in Office of Secretary of State March 31, 2004.

CHAPTER 251

[Substitute Senate Bill 6107]

QUARANTINED ANIMALS

AN ACT Relating to diseased and quarantined animals; and amending RCW 16.36.010, 16.36.060, 16.36.090, and 16.36.098.

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

Sec. 1. RCW 16.36.010 and 1998 c 8 s 2 are each amended to read as follows:

(1) The director shall supervise the prevention of the spread and the suppression of infectious, contagious, communicable, and dangerous diseases affecting animals within, in transit through, and imported into the state.

(2) The director may issue a quarantine order and enforce the quarantine of any animal or its reproductive products ~~((that is))~~ when any animal or its reproductive products are affected with or ((has)) have been exposed to disease or when there is reasonable cause to investigate whether any animal or its reproductive products are affected with or have been exposed to disease, either within or outside the state. Overt disease or exposure to disease in any animal or its reproductive products need not be immediately obvious for a quarantine order to be issued or enforced. The quarantine shall remain in effect as long as the director deems necessary.

(3) The director may issue a hold order when:

(a) Overt disease or exposure to disease in an animal is not immediately obvious but there is reasonable cause to investigate whether an animal is diseased or has been exposed to disease;

(b) Import health papers, permits, or other transportation documents required by law or rule are not complete or are suspected to be fraudulent; or

(c) Further transport of an animal would jeopardize the well-being of the animal or other animals in Washington state.

A hold order is in effect for seven days and expires at midnight on the seventh day from the date of the hold order. A hold order may be replaced with a quarantine order for the purpose of animal disease control.

(4) Any animal or animal reproductive product placed under a quarantine or hold order shall be kept separate and apart from other animals designated in the instructions of the quarantine or hold order, and shall not be allowed to have anything in common with other animals.

(5) The expenses of handling and caring for any animal or animal reproductive product placed under a quarantine or hold order are the responsibility of the owner.

(6) The director has authority over the quarantine or hold area until the quarantine or hold order is released or the hold order expires.

(7) Any animal or animal reproductive product placed under a quarantine or hold order may not be moved, transported, or sold without written approval from the director or until the quarantine or hold order is released, or the hold order expires.

(8) The director may administer oaths and examine witnesses and records in the performance of his or her duties to control diseases affecting animals.

Sec. 2. RCW 16.36.060 and 1998 c 8 s 6 are each amended to read as follows:

(1) The director has the authority to enter the animal premises of any animal owner at any reasonable time to ~~((make tests on or examinations of any animals))~~ conduct tests, examinations, or inspections for disease conditions when there is reasonable ~~((evidence that))~~ cause to investigate whether animals on the premises or that have been on the premises are infected with or have been exposed to a reportable disease. It is unlawful for any person to interfere with the tests, inspections, or examinations, or to alter any segregation or identification systems made in connection with the tests, inspections, or examinations. When the director has determined that there is probable cause that there is a serious risk from disease or contamination, the director may seize those items necessary to conduct the tests, inspections, or examinations.

(2) If the director is denied access to the animal premises or the animals for purposes of conducting tests, inspections, or examinations or the animal owner fails to comply with an order of the director, the director may apply to a court of competent jurisdiction for a search warrant. The warrant may authorize access to any animal or animal premises for purposes of conducting tests, inspections, or examinations of any animal or animal premises, or taking samples, and may authorize seizure or destruction of property. The warrant shall be issued upon probable cause being found by the court. It is sufficient probable cause to show a potential threat to the agricultural interests of this state or a potential threat which seriously endangers animals, human health, the environment, or public welfare. To show that access is denied, the director shall file with the court an affidavit or declaration containing a description of all attempts to notify and locate the owner or the owner's agent and to secure consent.

Sec. 3. RCW 16.36.090 and 1998 c 8 s 9 are each amended to read as follows:

When public welfare demands, the director may order the slaughter or destruction of any animal affected with or exposed to any contagious, infectious, or communicable disease that is affecting or may affect the health of the state's animal population. The director may order destruction of any animal held under quarantine when public welfare demands or the owner of the animal fails or refuses to follow a herd or flock plan. The director shall give a written order directing an animal be destroyed by or under the direction of the state veterinarian.

Sec. 4. RCW 16.36.098 and 1998 c 8 s 17 are each amended to read as follows:

Any person whose animal or animal reproductive products are placed under a quarantine, a hold order, or destruct order under RCW 16.36.090 may request a

hearing. The request for a hearing must be in writing and filed with the director. Any hearing will be held in conformance with RCW 34.05.422 and 34.05.479.

- Passed by the Senate March 10, 2004.
- Passed by the House March 2, 2004.
- Approved by the Governor March 31, 2004.
- Filed in Office of Secretary of State March 31, 2004.

CHAPTER 252

[Senate Bill 6314]

COMMUNITY ECONOMIC REVITALIZATION BOARD

AN ACT Relating to the community economic revitalization board; amending RCW 43.160.020, 43.160.030, and 43.160.200; and reenacting and amending RCW 43.160.060.

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

Sec. 1. RCW 43.160.020 and 1999 c 164 s 102 are each amended to read as follows:

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

- (1) "Board" means the community economic revitalization board.
- (2) "Bond" means any bond, note, debenture, interim certificate, or other evidence of financial indebtedness issued by the board pursuant to this chapter.
- (3) "Department" means the department of community, trade, and economic development.
- (4) "Financial institution" means any bank, savings and loan association, credit union, development credit corporation, insurance company, investment company, trust company, savings institution, or other financial institution approved by the board and maintaining an office in the state.
- (5) "Industrial development facilities" means "industrial development facilities" as defined in RCW 39.84.020.
- (6) "Industrial development revenue bonds" means tax-exempt revenue bonds used to fund industrial development facilities.
- (7) "Local government" or "political subdivision" means any port district, county, city, town, special purpose district, and any other municipal corporations or quasi-municipal corporations in the state providing for public facilities under this chapter.
- (8) "Sponsor" means any of the following entities which customarily provide service or otherwise aid in industrial or other financing and are approved as a sponsor by the board: A bank, trust company, savings bank, investment bank, national banking association, savings and loan association, building and loan association, credit union, insurance company, or any other financial institution, governmental agency, or holding company of any entity specified in this subsection.
- (9) "Umbrella bonds" means industrial development revenue bonds from which the proceeds are loaned, transferred, or otherwise made available to two or more users under this chapter.
- (10) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and receiving or applying to receive revenues from bonds issued under this chapter.

(11) "Public facilities" means a project of a local government or a federally recognized Indian tribe for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of bridges, roads, domestic and industrial water, earth stabilization, sanitary sewer, storm sewer, railroad, electricity, telecommunications, transportation, natural gas, buildings or structures, and port facilities, all for the purpose of job creation, job retention, or job expansion.

(12) "Rural county" means a county with a population density of fewer than one hundred persons per square mile as determined by the office of financial management.

(13) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets three of the five criteria set forth in subsection (14) of this section;

(b) A nonmetropolitan county with a population of less than forty thousand in the 1990 decennial census, that meets two of the five criteria as set forth in subsection (14) of this section; or

(c) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets three of the five criteria set forth in subsection (14) of this section.

(14) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(a) A lumber and wood products employment location quotient at or above the state average;

(b) A commercial salmon fishing employment location quotient at or above the state average;

(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area of which any part is ten miles or more from an urbanized area is considered nonurbanized. A zip code totally surrounded by zip codes qualifying as nonurbanized under this definition is also considered nonurbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter.

Sec. 2. RCW 43.160.030 and 2003 c 151 s 1 are each amended to read as follows:

(1) The community economic revitalization board is hereby created to exercise the powers granted under this chapter.

(2) The board shall consist of one member from each of the two major caucuses of the house of representatives to be appointed by the speaker of the house and one member from each of the two major caucuses of the senate to be appointed by the president of the senate. The board shall also consist of the following members appointed by the governor: A recognized private or public

sector economist; one port district official; one county official; one city official; one representative of a federally recognized Indian tribe; one representative of the public; one representative of small businesses each from: (a) The area west of Puget Sound, (b) the area east of Puget Sound and west of the Cascade range, (c) the area east of the Cascade range and west of the Columbia river, and (d) the area east of the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades. The appointive members shall initially be appointed to terms as follows: Three members for one-year terms, three members for two-year terms, and three members for three-year terms which shall include the chair. Thereafter each succeeding term shall be for three years. The chair of the board shall be selected by the governor. The members of the board shall elect one of their members to serve as vice-chair. The director of community, trade, and economic development, the director of revenue, the commissioner of employment security, and the secretary of transportation shall serve as nonvoting advisory members of the board.

(3) Management services, including fiscal and contract services, shall be provided by the department to assist the board in implementing this chapter and the allocation of private activity bonds.

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

(5) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the governor shall fill the same for the unexpired term. Members of the board may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.05 RCW.

(6) A member appointed by the governor may not be absent from more than fifty percent of the regularly scheduled meetings in any one calendar year. Any member who exceeds this absence limitation is deemed to have withdrawn from the office and may be replaced by the governor.

Sec. 3. RCW 43.160.060 and 2002 c 242 s 4 and 2002 c 239 s 1 are each reenacted and amended to read as follows:

The board is authorized to make direct loans to political subdivisions of the state and to federally recognized Indian tribes for the purposes of assisting the political subdivisions and federally recognized Indian tribes in financing the cost of public facilities, including development of land and improvements for public facilities, project-specific environmental, capital facilities, land use, permitting, feasibility, and marketing studies and plans; project design, site planning, and analysis; project debt and revenue impact analysis; as well as the construction, rehabilitation, alteration, expansion, or improvement of the facilities. A grant may also be authorized for purposes designated in this chapter, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision or the federally recognized Indian tribe and the finding by the board that financial circumstances require grant assistance to enable the project to move forward. However, at least ten percent of all financial assistance provided by the board in any biennium shall consist of grants to political subdivisions and federally recognized Indian tribes.

Application for funds shall be made in the form and manner as the board may prescribe. In making grants or loans the board shall conform to the following requirements:

(1) The board shall not provide financial assistance:

(a) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion.

(b) For any project that evidence exists would result in a development or expansion that would displace existing jobs in any other community in the state.

(c) For the acquisition of real property, including buildings and other fixtures which are a part of real property.

(d) For a project the primary purpose of which is to facilitate or promote gambling.

(2) The board shall only provide financial assistance:

(a) For those projects which would result in specific private developments or expansions (i) in manufacturing, production, food processing, assembly, warehousing, advanced technology, research and development, and industrial distribution; (ii) for processing recyclable materials or for facilities that support recycling, including processes not currently provided in the state, including but not limited to, de-inking facilities, mixed waste paper, plastics, yard waste, and problem-waste processing; (iii) for manufacturing facilities that rely significantly on recyclable materials, including but not limited to waste tires and mixed waste paper; (iv) which support the relocation of businesses from nondistressed urban areas to rural counties or rural natural resources impact areas; or (v) which substantially support the trading of goods or services outside of the state's borders.

(b) For projects which it finds will improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities.

(c) When the application includes convincing evidence that a specific private development or expansion is ready to occur and will occur only if the public facility improvement is made.

(3) The board shall prioritize each proposed project according to:

(a) The relative benefits provided to the community by the jobs the project would create, not just the total number of jobs it would create after the project is completed and according to the unemployment rate in the area in which the jobs would be located; and

(b) The rate of return of the state's investment, that includes the expected increase in state and local tax revenues associated with the project.

(4) A responsible official of the political subdivision or the federally recognized Indian tribe shall be present during board deliberations and provide information that the board requests.

Before any financial assistance application is approved, the political subdivision or the federally recognized Indian tribe seeking the assistance must demonstrate to the community economic revitalization board that no other timely source of funding is available to it at costs reasonably similar to financing available from the community economic revitalization board.

Sec. 4. RCW 43.160.200 and 1999 c 164 s 107 are each amended to read as follows:

(1) The economic development account is created within the public facilities construction loan revolving fund under RCW 43.160.080. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes of RCW 43.160.010(5) and this

section. The account is subject to allotment procedures under chapter 43.88 RCW.

(2) Applications under this section for assistance from the economic development account are subject to all of the applicable criteria set forth under this chapter, as well as procedures and criteria established by the board, except as otherwise provided.

(3) Eligible applicants under this section are limited to political subdivisions of the state and federally recognized Indian tribes in rural natural resources impact areas and rural counties.

(4) Applicants must demonstrate that their request is part of an economic development plan consistent with applicable state planning requirements. Applicants must demonstrate that tourism projects have been approved by the local government or federally recognized Indian tribe. Industrial projects must be approved by the local government and the associate development organization, or by the federally recognized Indian tribe.

(5) Publicly owned projects may be financed under this section upon proof by the applicant that the public project is a necessary component of, or constitutes in whole, a tourism project.

(6) Applications must demonstrate local match and participation. Such match may include: Land donation, other public or private funds or both, or other means of local commitment to the project.

(7) Board financing for project-specific environmental, capital facilities, land use, permitting, feasibility(($\frac{t}{t}$)), and marketing studies and plans; project engineering, design, and site planning and analysis; and project debt and revenue impact analysis shall not exceed fifty thousand dollars per study. Board funds for these purposes may be provided as a grant and require a match.

(8) Board financing for tourism projects shall not exceed two hundred fifty thousand dollars. Other public facility construction projects under this section shall not exceed one million dollars. Loans with flexible terms and conditions to meet the needs of the applicants shall be provided. Grants may also be authorized, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision or the federally recognized Indian tribe.

(9) The board shall develop guidelines for allowable local match and planning and predevelopment activities.

(10) The board may allow de minimis general system improvements to be funded if they are critically linked to the viability of the economic development project assisted under this section.

(i) Applications under this section need not demonstrate evidence that specific private development or expansion is ready to occur or will occur if funds are provided.

(12) The board shall establish guidelines for providing financial assistance under this section to ensure that the requirements of this chapter are complied with. The guidelines shall include:

(a) A process to equitably compare and evaluate applications from competing communities.

(b) Criteria to ensure that approved projects will have a high probability of success and are likely to provide long-term economic benefits to the community. The criteria shall include: (i) A minimum amount of local participation,

determined by the board per application, to verify community support for the project; (ii) an analysis that establishes the project is feasible using standard economic principles; and (iii) an explanation from the applicant regarding how the project is consistent with the communities' economic strategy and goals.

(c) A method of evaluating the impact of the financial assistance on the economy of the community and whether the financial assistance achieved its purpose.

Passed by the Senate March 10, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 253

[Senate Bill 6663]

VENDOR TAX—PROMOTER DUTIES

AN ACT Relating to promoters duties with respect to vendor tax registration; and amending RCW 82.32.033.

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

Sec. 1. RCW 82.32.033 and 2003 1st sp.s. c 13 s 15 are each amended to read as follows:

(1) A promoter of a special event within the state of Washington shall not permit a vendor to make or solicit retail sales of tangible personal property or services at the special event unless the promoter (~~((obtains))~~) makes a good faith effort to obtain verification that the vendor has obtained a certificate of registration from the department.

(2) A promoter of a special event shall:

(a) Keep, in addition to the records required under RCW 82.32.070, a record of the dates and place of each special event, and the name, address, and registration certificate number of (~~((vendors))~~) each vendor permitted to make or solicit retail sales of tangible personal property or services at the special event. The record of the date and place of a special event, and the name, address, and registration certificate number of each vendor at the event shall be preserved for a period of one year from the date of a special event; and

(b) Provide to the department, within twenty days of receipt of a written request from the department, a list of vendors permitted to make or solicit retail sales of tangible personal property or services. The list shall be in a form and contain such information as the department may require, and shall include the date and place of the event, and the name, address, and registration certificate number of each vendor.

(3) If a promoter fails to make a good faith effort to comply with the provisions of this section, the promoter is liable for the penalties provided in this subsection (3).

(a) If a promoter fails to make a good faith effort to comply with the provisions of subsection (1) of this section, the department shall impose a penalty of one hundred dollars for each vendor permitted to make or solicit retail sales of tangible personal property or services at the special event.

(b) If a promoter fails to make a good faith effort to comply with the provisions of subsection (2)(b) of this section, the department shall impose a penalty of:

(i) Two hundred fifty dollars if the information requested is not received by the department within twenty days of the department's written request; and

(ii) One hundred dollars for each vendor for whom the information as required by subsection (2)(b) of this section is not provided to the department.

(4) The aggregate of penalties imposed under subsection (3) of this section may not exceed two thousand five hundred dollars for a special event if the promoter has not previously been penalized under this section. Under no circumstances is a promoter liable for sales tax or business and occupation tax not remitted to the department by a vendor at a special event.

(5) The department shall notify a promoter by mail of any penalty imposed under this section, and the penalty shall be due within thirty days from the date of the notice. If any penalty imposed under this section is not received by the department by the due date, there shall be assessed interest on the unpaid amount beginning the day following the due date until the penalty is paid in full. The rate of interest shall be computed on a daily basis on the amount of outstanding penalty at the rate as computed under RCW 82.32.050(2). The rate computed shall be adjusted annually in the same manner as provided in RCW 82.32.050(1)(c).

(6) For purposes of this section:

(a) "Promoter" means a person who organizes, operates, or sponsors a special event and who contracts with vendors for participation in the special event.

(b) "Special event" means an entertainment, amusement, recreational, educational, or marketing event, whether held on a regular or irregular basis, at which more than one vendor makes or solicits retail sales of tangible personal property or services. The term includes, but is not limited to: Auto shows, recreational vehicle shows, boat shows, home shows, garden shows, hunting and fishing shows, stamp shows, comic book shows, sports memorabilia shows, craft shows, art shows, antique shows, flea markets, exhibitions, festivals, concerts, swap meets, bazaars, carnivals, athletic contests, circuses, fairs, or other similar activities. "Special event" does not include an event that is organized for the exclusive benefit of any nonprofit organization as defined in RCW 82.04.3651. An event is organized for the exclusive benefit of a nonprofit organization if all of the gross proceeds of retail sales of all vendors at the event inure to the benefit of the nonprofit organization on whose behalf the event is being held. "Special event" does not include athletic contests that involve competition between teams, when such competition consists of more than five contests in a calendar year by at least one team at the same facility or site.

(c) "Vendor" means a person who, at a special event, makes or solicits retail sales of tangible personal property or services.

(7) "Good faith effort to comply" and "good faith effort to obtain" may be shown by, but is not limited to, circumstances where a promoter:

(a) Includes a statement on all written contracts with its vendors that a valid registration certificate number issued by the department of revenue is required for participation in the special event and requires vendors to indicate their registration certificate number on these contracts; and

(b) Provides the department with a list of vendors and their associated registration certificate numbers as provided in subsection (2)(b) of this section.

(8) This section does not apply to:

(a) A special event whose promoter does not charge more than two hundred dollars for a vendor to participate in a special event;

(b) A special event whose promoter charges a percentage of sales instead of, or in addition to, a flat charge for a vendor to participate in a special event if the promoter, in good faith, believes that no vendor will pay more than two hundred dollars to participate in the special event; or

(c) A person who does not organize, operate, or sponsor a special event, but only provides a venue, supplies, furnishings, fixtures, equipment, or services to a promoter of a special event.

Passed by the Senate March 9, 2004.

Passed by the House March 5, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 254

[Senate Bill 6448]

TELEPHONE PROGRAM EXCISE TAXES

AN ACT Relating to transferring responsibility for collecting certain telephone program excise taxes from the department of social and health services to the department of revenue; amending RCW 43.20A.725 and 80.36.430; adding a new chapter to Title 82 RCW; creating new sections; prescribing penalties; and providing an effective date.

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

Sec. I. RCW 43.20A.725 and 2001 c 210 s 2 are each amended to read as follows:

(1) The department, through the sole authority of the office or its successor organization, shall maintain a program whereby an individual of school age or older who possesses a hearing or speech impairment is provided with telecommunications equipment, software, and/or peripheral devices, digital or otherwise, that is determined by the office to be necessary for such a person to access and use telecommunications transmission services effectively.

(2) The department, through the sole authority of the office or its successor organization, shall maintain a program where telecommunications relay services of a human or electronic nature will be provided to connect hearing impaired, deaf-blind, or speech impaired persons with persons who do not have a hearing or speech impairment. Such telecommunications relay services shall provide the ability for an individual who has a hearing or speech impairment to engage in voice, tactile, or visual communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech impairment to communicate using voice or visual communication services by wire or radio subject to subsection (4)(b) of this section.

(3) The telecommunications relay service and equipment distribution program may operate in such a manner as to provide communications transmission opportunities that are capable of incorporating new technologies

that have demonstrated benefits consistent with the intent of this chapter and are in the best interests of the citizens of this state.

(4) The office shall administer and control the award of money to all parties incurring costs in implementing and maintaining telecommunications services, programs, equipment, and technical support services according to this section. The relay service contract shall be awarded to an individual company registered as a telecommunications company by the utilities and transportation commission, to a group of registered telecommunications companies, or to any other company or organization determined by the office as qualified to provide relay services, contingent upon that company or organization being approved as a registered telecommunications company prior to final contract approval. The relay system providers and telecommunications equipment vendors shall be selected on the basis of cost-effectiveness and utility to the greatest extent possible under the program and technical specifications established by the office.

(a) To the extent funds are available under the then-current rate and not otherwise held in reserve or required for other purposes authorized by this chapter, the office may award contracts for communications and related services and equipment for hearing impaired or speech impaired individuals accessing or receiving services provided by, or contracted for, the department to meet access obligations under Title 2 of the federal Americans with disabilities act or related federal regulations.

(b) The office shall perform its duties under this section with the goal of achieving functional equivalency of access to and use of telecommunications services similar to the enjoyment of access to and use of such services experienced by an individual who does not have a hearing or speech impairment only to the extent that funds are available under the then-current rate and not otherwise held in reserve or required for other purposes authorized by this chapter.

(5) The program shall be funded by a telecommunications relay service (TRS) excise tax applied to each switched access line provided by the local exchange companies. The office shall determine, in consultation with the office's program advisory committee, the budget needed to fund the program on an annual basis, including both operational costs and a reasonable amount for capital improvements such as equipment upgrade and replacement. The budget proposed by the office, together with documentation and supporting materials, shall be submitted to the office of financial management for review and approval. The approved budget shall be given by the department in an annual budget to the ~~((utilities and transportation commission))~~ department of revenue no later than March 1st prior to the beginning of the fiscal year. The ~~((utilities and transportation commission))~~ department of revenue shall then determine the amount of telecommunications relay service excise tax to be placed on each switched access line and shall inform ~~((each))~~ local exchange ~~((company))~~ companies and the utilities and transportation commission of this amount no later than May ~~((45))~~ 1st. The ~~((utilities and transportation commission))~~ department of revenue shall determine the amount of telecommunications relay service excise tax to be collected in the following fiscal year by dividing the total of the program budget, as submitted by the office, by the total number of switched access lines in the prior calendar year, as reported to the department of

revenue under chapter 82.14B RCW, and shall not exercise any further oversight of the program under this subsection other than administering the collection of the telecommunications relay service excise tax as provided in sections 3 through 11 of this act. The telecommunications relay service excise tax shall not exceed nineteen cents per month per access line. ~~((Each local exchange company shall impose the amount of excise tax determined by the commission as of July 1, and shall remit the amount collected directly to the department on a monthly basis.))~~ The telecommunications relay service excise tax shall be separately identified on each ratepayer's bill with the following statement: "Funds federal ADA requirement." All proceeds from the telecommunications relay service excise tax shall be put into a fund to be administered by the office through the department. "Switched access line" has the meaning provided in RCW 82.14B.020.

(6) The telecommunications relay service program and equipment vendors shall provide services and equipment consistent with the requirements of federal law for the operation of both interstate and intrastate telecommunications services for the hearing impaired or speech impaired. The department and the utilities and transportation commission shall be responsible for ensuring compliance with federal requirements and shall provide timely notice to the legislature of any legislation that may be required to accomplish compliance.

(7) The department shall adopt rules establishing eligibility criteria, ownership obligations, financial contributions, and a program for distribution to individuals requesting and receiving such telecommunications devices distributed by the office, and other rules necessary to administer programs and services consistent with this chapter.

Sec. 2. RCW 80.36.430 and 2003 c 134 s 4 are each amended to read as follows:

(1) The Washington telephone assistance program shall be funded by a telephone assistance excise tax on all switched access lines and by funds from any federal government or other programs for this purpose. Switched access lines are defined in RCW 82.14B.020. The telephone assistance excise tax shall be applied equally to all residential and business access lines not to exceed fourteen cents per month. The department shall submit an approved annual budget for the Washington telephone assistance program to the department of revenue no later than March 1st prior to the beginning of each fiscal year. The department of revenue shall then determine the amount of telephone assistance excise tax to be placed on each switched access line and shall inform local exchange companies and the utilities and transportation commission of this amount no later than May 1st. The department of revenue shall determine the amount of telephone assistance excise tax by dividing the total of the program budget funded by the telephone assistance excise tax, as submitted by the department, by the total number of switched access lines in the prior calendar year. The telephone assistance excise tax shall be separately identified on each ratepayer's bill as the "Washington telephone assistance program." All money collected from the telephone assistance excise tax shall be transferred to a telephone assistance fund administered by the department.

(2) Local exchange companies shall bill the fund for their expenses incurred in offering the telephone assistance program, including administrative and program expenses. The department shall disburse the money to the local

exchange companies. The department is exempted from having to conclude a contract with local exchange companies in order to effect this reimbursement. The department shall recover its administrative costs from the fund. The department may specify by rule the range and extent of administrative and program expenses that will be reimbursed to local exchange companies.

(3) The department shall enter into an agreement with the department of community, trade, and economic development for an amount not to exceed eight percent of the prior fiscal year's total revenue for the administrative and program expenses of providing community service voice mail services. The community service voice mail service may include toll-free lines in community action agencies through which recipients can access their community service voice mailboxes at no charge.

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

(1) "Switched access line" has the meaning provided in RCW 82.14B.020.

(2) "Local exchange company" has the meaning provided in RCW 80.04.010.

(3) "Subscriber" means the retail purchaser of telephone service as telephone service is defined in RCW 82.04.065(3).

(4) "Telephone program excise taxes" means the taxes on switched access lines imposed by RCW 43.20A.725 and 80.36.430.

NEW SECTION. Sec. 4. The department shall collect the telephone program excise taxes on behalf of the department of social and health services at no cost to the department of social and health services. The telephone program excise taxes shall be remitted to the department by local exchange companies on a tax return provided by the department. All telephone program excise taxes shall be deposited by the treasurer into the account described in RCW 43.20A.725 and the account described in RCW 80.36.430.

NEW SECTION. Sec. 5. Telephone program excise taxes shall be collected from the subscriber by the local exchange company providing the switched access line.

NEW SECTION. Sec. 6. (1) Telephone program excise taxes must be paid by the subscriber to the local exchange company providing the switched access line, and each local exchange company shall collect from the subscriber the full amount of the taxes payable. Telephone program excise taxes to be collected by the local exchange company are deemed to be held in trust by the local exchange company until paid to the department. Any local exchange company that appropriates or converts the tax collected to its own use or to any use other than the payment of the tax to the extent that the money collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) If any local exchange company fails to collect telephone program excise taxes or, after collecting the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of its own act or the result of acts or conditions beyond its control, the local exchange company is personally liable to the state for the amount of the tax, unless the local exchange company has taken from the buyer in good faith a properly executed resale certificate under section 9 of this act.

(3) The amount of tax, until paid by the subscriber to the local exchange company or to the department, constitutes a debt from the subscriber to the local exchange company. Any local exchange company that fails or refuses to collect telephone program excise taxes as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any subscriber who refuses to pay any telephone excise tax is guilty of a misdemeanor.

(4) If a subscriber has failed to pay to the local exchange company the telephone program excise taxes and the local exchange company has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the subscriber for collection of the tax, in which case a penalty of ten percent may be added to the amount of the tax for failure of the subscriber to pay the tax to the local exchange company, regardless of when the tax is collected by the department. Telephone program excise taxes are due as provided under section 7 of this act.

NEW SECTION. Sec. 7. (1) The department shall administer and shall adopt rules necessary to enforce and administer the collection of telephone program excise taxes. Chapter 82.32 RCW, with the exception of RCW 82.32.045, 82.32.145, and 82.32.380, applies to the administration, collection, and enforcement of telephone program excise taxes.

(2) Telephone program excise taxes, along with reports and returns on forms prescribed by the department, are due at the same time the taxpayer reports other taxes under RCW 82.32.045. If no other taxes are reported under RCW 82.32.045, the taxpayer shall remit telephone program excise taxes on an annual basis in accordance with RCW 82.32.045.

(3) The department may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year.

(4) Telephone program excise taxes are in addition to any taxes imposed upon the same persons under chapters 82.08, 82.12, and 82.14B RCW.

NEW SECTION. Sec. 8. (1) A local exchange company shall file tax returns on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the company. A local exchange company filing returns on a cash receipts basis is not required to pay telephone program excise taxes on debts that are deductible as worthless for federal income tax purposes.

(2) A local exchange company is entitled to a credit or refund for telephone program excise taxes previously paid on debts that are deductible as worthless for federal income tax purposes.

NEW SECTION. Sec. 9. (1) Unless a local exchange company has taken from the buyer a resale certificate or equivalent document under RCW 82.04.470, the burden of proving that a sale of the use of a switched access line was not a sale to a subscriber is upon the person who made the sale.

(2) If a local exchange company does not receive a resale certificate at the time of the sale, have a resale certificate on file at the time of the sale, or obtain a resale certificate from the buyer within a reasonable time after the sale, the local exchange company remains liable for the telephone program excise taxes as

provided in section 6 of this act, unless the local exchange company can demonstrate facts and circumstances according to rules adopted by the department that show the sale was properly made without payment of telephone program excise taxes.

(3) The penalty imposed by RCW 82.32.291 may not be assessed on telephone program excise taxes that are due but not paid as a result of the improper use of a resale certificate. This subsection does not prohibit or restrict the application of other penalties authorized by law.

NEW SECTION. Sec. 10. (1) Upon termination, dissolution, or abandonment of a corporate or limited liability company business, any officer, member, manager, or other person having control or supervision of tax funds collected and held in trust under section 6 of this act, or who is charged with the responsibility for the filing of returns or the payment of tax funds collected and held in trust under section 6 of this act, is personally liable for any unpaid taxes and interest and penalties on those taxes, if the officer or other person willfully fails to pay or to cause to be paid any taxes due from the corporation under this section. For the purposes of this section, any taxes that have been paid, but not collected, are deductible from the taxes collected but not paid. For purposes of this subsection "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(2) The officer, member, manager, or other person is liable only for taxes collected that became due during the period he or she had the control, supervision, responsibility, or duty to act for the corporation described in subsection (1) of this section, plus interest and penalties on those taxes.

(3) Persons liable under subsection (1) of this section are exempt from liability if nonpayment of the tax funds held in trust is due to reasons beyond their control as determined by the department by rule.

(4) Any person having been issued a notice of assessment under this section is entitled to the appeal procedures under RCW 82.32.160 through 82.32.200.

(5) This section applies only if the department has determined that there is no reasonable means of collecting the tax funds held in trust directly from the corporation.

(6) This section does not relieve the corporation or limited liability company of other tax liabilities or otherwise impair other tax collection remedies afforded by law.

NEW SECTION. Sec. 11. Unless otherwise stated in this chapter, the collection authority and procedures prescribed in chapter 82.32 RCW apply to collections under this section.

NEW SECTION. Sec. 12. Sections 3 through 11 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. Sec. 13. (1) The department of revenue is responsible for the administration and collection of telephone program excise taxes as provided in this act only with regard to telephone program excise taxes that are imposed on switched access lines for any time period occurring on or after the effective date of this act.

(2) The department of social and health services is responsible for the administration and collection of telephone program excise taxes as provided in

this act only with regard to telephone program excise taxes that are imposed on switched access lines for the current year and the four preceding years which occurred prior to the effective date of this act.

NEW SECTION. Sec. 14. This act takes effect July 1, 2004.

NEW SECTION. Sec. 15. The secretary of the department of social and health services and the director of the department of revenue may take the necessary steps to ensure that this act is implemented on its effective date.

Passed by the Senate March 10, 2004.

Passed by the House March 10, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 255

[Senate Bill 5869]

NONPROFIT CORPORATIONS—SELF-INSURANCE RISK POOLS

AN ACT Relating to authorizing nonprofit corporations to participate in self-insurance risk pools; amending RCW 48.62.021; adding a new section to chapter 48.62 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that recent increases in property and liability insurance premiums experienced by some nonprofit organizations have the potential to negatively impact the ability of these organizations to continue to offer the level of service they provide in our communities. The legislature finds that nonprofit organizations are distinct from private for-profit businesses. By their very nature, nonprofit organizations are formed for purposes other than generating a profit, and are restricted from distributing any part of the organization's income to its directors or officers. Because of these characteristics, nonprofit organizations provide a unique public good to the residents in our state.

The legislature finds that in order to sustain the financial viability of nonprofit organizations, they should be provided with alternative options for insuring against risks. The legislature further finds that local government entities and nonprofit organizations share the common goal of providing services beneficial to the public interest. The legislature finds that allowing nonprofit organizations and local government entities to pool risk in self-insurance risk pools may be of mutual benefit for both types of entities. Therefore, it is the intent of the legislature to allow nonprofit organizations to form or participate in self-insurance risk pools with other nonprofit organizations or with local government entities where authority for such risk pooling arrangements does not currently exist in state or federal law.

Sec. 2. RCW 48.62.021 and 2002 c 332 s 24 are each amended to read as follows:

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

(1) "Local government entity" or "entity" means every unit of local government, both general purpose and special purpose, and includes, but is not limited to, counties, cities, towns, port districts, public utility districts, water-

sewer districts, school districts, fire protection districts, irrigation districts, metropolitan municipal corporations, conservation districts, and other political subdivisions, governmental subdivisions, municipal corporations, and quasi-municipal corporations.

(2) "Risk assumption" means a decision to absorb the entity's financial exposure to a risk of loss without the creation of a formal program of advance funding of anticipated losses.

(3) "Self-insurance" means a formal program of advance funding and management of entity financial exposure to a risk of loss that is not transferred through the purchase of an insurance policy or contract.

(4) "Health and welfare benefits" means a plan or program established by a local government entity or entities for the purpose of providing its employees and their dependents, and in the case of school districts, its district employees, students, directors, or any of their dependents, with health care, accident, disability, death, and salary protection benefits.

(5) "Property and liability risks" includes the risk of property damage or loss sustained by a local government entity and the risk of claims arising from the tortious or negligent conduct or any error or omission of the local government entity, its officers, employees, agents, or volunteers as a result of which a claim may be made against the local government entity.

(6) "State risk manager" means the risk manager of the risk management division within the office of financial management.

(7) "Nonprofit corporation" or "corporation" has the same meaning as defined in RCW 24.03.005(3).

NEW SECTION. Sec. 3. A new section is added to chapter 48.62 RCW to read as follows:

(1) A nonprofit corporation may form or join a self-insurance risk pool with one or more nonprofit corporations or with a local government entity or entities for property and liability risks.

(2) A nonprofit corporation that participates in or forms a self-insurance risk pool with one or more nonprofit corporations or with a local government entity or entities, as provided in subsection (1) of this section, is subject to the same rules and regulations that apply to a local government entity or entities under this chapter.

(3) This section does not apply to a nonprofit corporation that:

(a) Individually self-insures for property and liability risks;

(b) Participates in a risk pooling arrangement, including a risk retention group or a risk purchasing group, regulated under chapter 48.92 RCW, or is a captive insurer authorized in its state of domicile; or

(c) Is a hospital licensed under chapter 70.41 RCW or an entity owned, operated, controlled by, or affiliated with such a hospital that participates in a self-insurance risk pool or other risk pooling arrangement, unless the self-insurance pool or other risk pooling arrangement for property and liability risks includes a local government entity.

Passed by the Senate March 8, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 256

[Senate Bill 6593]

HOUSING—CONSUMER CHOICE

AN ACT Relating to prohibiting discrimination against consumers' choices in housing; amending RCW 35.63.160; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 36.01 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature finds that: Congress has preempted the regulation by the states of manufactured housing construction standards through adoption of construction standards for manufactured housing (42 U.S.C. Sec. 5401-5403); and this federal regulation is equivalent to the state's uniform building code. The legislature also finds that congress has declared that: (1) Manufactured housing plays a vital role in meeting the housing needs of the nation; and (2) manufactured homes provide a significant resource for affordable homeownership and rental housing accessible to all Americans (42 U.S.C. Sec. 5401-5403). The legislature intends to protect the consumers' rights to choose among a number of housing construction alternatives without restraint of trade or discrimination by local governments.

NEW SECTION. Sec. 2. A new section is added to chapter 35.21 RCW to read as follows:

(1) A city or town may not enact any statute or ordinance that has the effect, directly or indirectly, of discriminating against consumers' choices in the placement or use of a home in such a manner that is not equally applicable to all homes. Homes built to 42 U.S.C. Sec. 5401-5403 standards (as amended in 2000) must be regulated for the purposes of siting in the same manner as site built homes, factory built homes, or homes built to any other state construction or local design standard. However, any city or town may require that (a) a manufactured home be a new manufactured home; (b) the manufactured home be set upon a permanent foundation, as specified by the manufacturer, and that the space from the bottom of the home to the ground be enclosed by concrete or an approved concrete product which can be either load bearing or decorative; (c) the manufactured home comply with all local design standards applicable to all other homes within the neighborhood in which the manufactured home is to be located; (d) the home is thermally equivalent to the state energy code; and (e) the manufactured home otherwise meets all other requirements for a designated manufactured home as defined in RCW 35.63.160. A city with a population of one hundred thirty-five thousand or more may choose to designate its building official as the person responsible for issuing all permits, including department of labor and industries permits issued under chapter 43.22 RCW in accordance with an interlocal agreement under chapter 39.34 RCW, for alterations, remodeling, or expansion of manufactured housing located within the city limits under this section.

(2) This section does not override any legally recorded covenants or deed restrictions of record.

(3) This section does not affect the authority granted under chapter 43.22 RCW.

NEW SECTION. Sec. 3. A new section is added to chapter 35A.21 RCW to read as follows:

(1) A code city may not enact any statute or ordinance that has the effect, directly or indirectly, of discriminating against consumers' choices in the placement or use of a home in such a manner that is not equally applicable to all homes. Homes built to 42 U.S.C. Sec. 5401-5403 standards (as amended in 2000) must be regulated for the purposes of siting in the same manner as site built homes, factory built homes, or homes built to any other state construction or local design standard. However, any code city may require that (a) a manufactured home be a new manufactured home; (b) the manufactured home be set upon a permanent foundation, as specified by the manufacturer, and that the space from the bottom of the home to the ground be enclosed by concrete or an approved concrete product which can be either load bearing or decorative; (c) the manufactured home comply with all local design standards applicable to all other homes within the neighborhood in which the manufactured home is to be located; (d) the home is thermally equivalent to the state energy code; and (e) the manufactured home otherwise meets all other requirements for a designated manufactured home as defined in RCW 35.63.160. A code city with a population of one hundred thirty-five thousand or more may choose to designate its building official as the person responsible for issuing all permits, including department of labor and industries permits issued under chapter 43.22 RCW in accordance with an interlocal agreement under chapter 39.34 RCW, for alterations, remodeling, or expansion of manufactured housing located within the city limits under this section.

(2) This section does not override any legally recorded covenants or deed restrictions of record.

(3) This section does not affect the authority granted under chapter 43.22 RCW.

NEW SECTION. Sec. 4. A new section is added to chapter 36.01 RCW to read as follows:

(1) A county may not enact any statute or ordinance that has the effect, directly or indirectly, of discriminating against consumers' choices in the placement or use of a home in such a manner that is not equally applicable to all homes. Homes built to 42 U.S.C. Sec. 5401-5403 standards (as amended in 2000) must be regulated for the purposes of siting in the same manner as site built homes, factory built homes, or homes built to any other state construction or local design standard. However, any county may require that (a) a manufactured home be a new manufactured home; (b) the manufactured home be set upon a permanent foundation, as specified by the manufacturer, and that the space from the bottom of the home to the ground be enclosed by concrete or an approved concrete product which can be either load bearing or decorative; (c) the manufactured home comply with all local design standards applicable to all other homes within the neighborhood in which the manufactured home is to be located; (d) the home is thermally equivalent to the state energy code; and (e) the manufactured home otherwise meets all other requirements for a designated manufactured home as defined in RCW 35.63.160.

(2) This section does not override any legally recorded covenants or deed restrictions of record.

(3) This section does not affect the authority granted under chapter 43.22 RCW.

Sec. 5. RCW 35.63.160 and 1988 c 239 s 1 are each amended to read as follows:

(1) ~~((Each comprehensive plan which does not allow for the siting of manufactured homes on individual lots shall be subject to a review by the city of the need and demand for such homes. The review shall be completed by December 31, 1990.~~

(2) ~~For the purpose of providing an optional reference for cities which choose to allow manufactured homes on individual lots,))~~ A "designated manufactured home" is a manufactured home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes, which:

(a) Is comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long;

(b) Was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of ~~((not less than))~~ nominal 3:12 pitch; and

(c) Has exterior siding similar in appearance to siding materials commonly used on conventional site-built uniform building code single-family residences.

(2) "New manufactured home" means any manufactured home required to be titled under Title 46 RCW, which has not been previously titled to a retail purchaser, and is not a "used mobile home" as defined in RCW 82.45.032(2).

(3) Nothing in this section precludes cities from allowing any manufactured home from being sited on individual lots through local standards which differ from the designated manufactured home or new manufactured home as described in this section, except that the term "designated manufactured home" and "new manufactured home" shall not be used except as defined in subsections (1) and (2) of this section.

NEW SECTION. **Sec. 6.** This act takes effect July 1, 2005.

Passed by the Senate March 10, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 257

[Substitute Senate Bill 6600]

CONSTRUCTION LIABILITY

AN ACT Relating to construction liability; and amending RCW 4.16.300.

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

Sec. 1. RCW 4.16.300 and 1986 c 305 s 703 are each amended to read as follows:

RCW 4.16.300 through 4.16.320 shall apply to all claims or causes of action of any kind against any person, arising from such person having constructed, altered or repaired any improvement upon real property, or having performed or furnished any design, planning, surveying, architectural or construction or engineering services, or supervision or observation of construction, or administration of construction contracts for any construction, alteration or repair

of any improvement upon real property. This section is specifically intended to benefit ~~((only those persons referenced herein))~~ persons having performed work for which the persons must be registered or licensed under RCW 18.08.310, 18.27.020, 18.43.040, 18.96.020, or 19.28.041, and shall not apply to claims or causes of action against ~~((manufacturers))~~ persons not required to be so registered or licensed.

NEW SECTION. Sec. 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate February 16, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 258

[Substitute Senate Bill 6615]

EMPLOYMENT—DEVELOPMENTALLY DISABLED WORKERS

AN ACT Relating to employment of workers with developmental disabilities; and amending RCW 51.16.120.

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

Sec. 1. RCW 51.16.120 and 1984 c 63 s 1 are each amended to read as follows:

(1) Whenever a worker has a previous bodily disability from any previous injury or disease, whether known or unknown to the employer, and shall suffer a further disability from injury or occupational disease in employment covered by this title and become totally and permanently disabled from the combined effects thereof or die when death was substantially accelerated by the combined effects thereof, then the experience record of an employer insured with the state fund at the time of said further injury or disease shall be charged and a self-insured employer shall pay directly into the reserve fund only the accident cost which would have resulted solely from said further injury or disease, had there been no preexisting disability, and which accident cost shall be based upon an evaluation of the disability by medical experts. The difference between the charge thus assessed to such employer at the time of said further injury or disease and the total cost of the pension reserve shall be assessed against the second injury fund. The department shall pass upon the application of this section in all cases where benefits are paid for total permanent disability or death and issue an order thereon appealable by the employer. Pending outcome of such appeal the transfer or payment shall be made as required by such order.

(2) The department shall, in cases of claims of workers sustaining injuries or occupational diseases in the employ of state fund employers, recompute the experience record of such employers when the claims of workers injured in their employ have been found to qualify for payments from the second injury fund after the regular time for computation of such experience records and the department may make appropriate adjustments in such cases including cash refunds or credits to such employers.

(3) To encourage employment of injured workers who are not reemployed by the employer at the time of injury, the department may adopt rules providing for the reduction or elimination of premiums or assessments from subsequent employers of such workers and may also adopt rules for the reduction or elimination of charges against such employers in the event of further injury to such workers in their employ.

(4) To encourage employment of injured workers who have a developmental disability as defined in RCW 71A.10.020, the department may adopt rules providing for the reduction or elimination of premiums or assessments from employers of such workers and may also adopt rules for the reduction or elimination of charges against their employers in the event of further injury to such workers in their employ.

Passed by the Senate February 16, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 259

[Substitute Senate Bill 6428]

DEPARTMENT OF LABOR AND INDUSTRIES—HEALTH CARE PROVIDERS

AN ACT Relating to the role of the department of labor and industries in regards to health care providers; and adding a new section to chapter 51.52 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 51.52 RCW to read as follows:

When a provider files with the board an appeal from an order terminating the provider's authority to provide services related to the treatment of industrially injured workers, the department may petition the board for an order immediately suspending the provider's eligibility to participate as a provider of services to industrially injured workers under this title pending the final disposition of the appeal by the board. The board shall grant the petition if it determines that there is good cause to believe that workers covered under this title may suffer serious physical or mental harm if the petition is not granted. The board shall expedite the hearing of the department's petition under this section.

Passed by the Senate March 8, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 260

[Engrossed Substitute Senate Bill 6112]

SELF-FUNDED MULTIPLE EMPLOYER ARRANGEMENTS

AN ACT Relating to self-funded multiple employer welfare arrangements; amending RCW 48.02.190, 48.03.060, 48.14.0201, 48.41.030, and 48.41.060; adding a new section to chapter 48.43 RCW; adding a new section to chapter 48.31 RCW; adding a new section to chapter 48.99 RCW; adding a new chapter to Title 48 RCW; prescribing penalties; and declaring an emergency.

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

NEW SECTION. Sec. 1. This chapter may be cited as the "self-funded multiple employer welfare arrangement regulation act."

NEW SECTION. Sec. 2. The purposes of this chapter are to:

- (1) Provide for the authorization and registration of self-funded multiple employer welfare arrangements;
- (2) Regulate self-funded multiple employer welfare arrangements in order to ensure the financial integrity of the arrangements;
- (3) Provide reporting requirements for self-funded multiple employer welfare arrangements; and
- (4) Provide for sanctions against self-funded multiple employer welfare arrangements organized, operated, providing benefits, or maintained in this state that do not comply with this chapter.

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

(1) "Bona fide association" means an association of employers that has been in existence for a period of not less than ten years prior to sponsoring a self-funded multiple employer welfare arrangement, during which time the association has engaged in substantial activities relating to the common interests of member employers, and that continues to engage in substantial activities in addition to sponsoring an arrangement. However, an association that was formed and began sponsoring an arrangement prior to October 1, 1995, is not subject to the requirement that the association be in existence for ten years prior to sponsoring an arrangement.

(2) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more other persons or who contracts with one or more persons, the essence of which is the personal labor of that person or persons.

(3) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(4) "Incurred claims" means the value of all amounts paid or payable under a multiple employer welfare arrangement determined by contract to be a liability with an incurred claims date during the valuation period. It includes all payments during the valuation period plus a reasonable estimate of unpaid claims liabilities.

(5) "Multiple employer welfare arrangement" means a multiple employer welfare arrangement as defined by 29 U.S.C. Sec. 1002, but does not include an arrangement, plan, program, or interlocal agreement of or between any political subdivisions of this state, any federal agencies, or any contractors or subcontractors with federal agencies at a federal government facility within this state.

(6) "Qualified actuary" means an individual who:

- (a) Is a member in good standing of the American academy of actuaries; and
- (b) Is qualified to sign statements of actuarial opinion for health annual statements in accordance with the American academy of actuaries qualification standards for actuaries signing the statements.

(7) "Self-funded multiple employer welfare arrangement" or "arrangement" means a multiple employer welfare arrangement that does not provide for payment of benefits under the arrangement solely through a policy or policies of insurance issued by one or more insurance companies licensed under this title.

(8) "Surplus" means the excess of the assets of a self-funded multiple employer welfare arrangement over the liabilities of the arrangement. The assets and liabilities should be determined in accordance with the accounting practices and procedures manuals as adopted by the national association of insurance commissioners, unless otherwise provided by law.

NEW SECTION. Sec. 4. (1) Except as provided in subsection (3) of this section, a person may not establish, operate, provide benefits, or maintain a self-funded multiple employer welfare arrangement in this state unless the arrangement first obtains a certificate of authority from the commissioner.

(2) An arrangement is considered to be established, operated, providing benefits, or maintained in this state if (a) one or more of the employer members participating in the arrangement is either domiciled in or maintains a place of business in this state, or (b) the activities of the arrangement or employer members fall under the scope of RCW 48.01.020.

(3) An arrangement established, operated, providing benefits, or maintained in this state prior to December 31, 2003, has until April 1, 2005, to file a substantially complete application for a certificate of authority. An arrangement that files a substantially complete application for a certificate of authority by that date is allowed to continue to operate without a certificate of authority until the commissioner approves or denies the arrangement's application for a certificate of authority.

NEW SECTION. Sec. 5. The commissioner may not issue a certificate of authority to a self-funded multiple employer welfare arrangement unless the arrangement establishes to the satisfaction of the commissioner that the following requirements have been satisfied by the arrangement:

(1) The employers participating in the arrangement are members of a bona fide association;

(2) The employers participating in the arrangement exercise control over the arrangement, as follows:

(a) Subject to (b) of this subsection, control exists if the board of directors of the bona fide association or the employers participating in the arrangement have the right to elect at least seventy-five percent of the individuals designated in the arrangement's organizational documents as having control over the operations of the arrangement and the individuals designated in the arrangement's organizational documents in fact exercise control over the operation of the arrangement; and

(b) The use of a third-party administrator to process claims and to assist in the administration of the arrangement is not evidence of the lack of exercise of control over the operation of the arrangement;

(3) In this state, the arrangement provides only health care services;

(4) In this state, the arrangement provides or arranges benefits for health care services in compliance with those provisions of this title that mandate particular benefits or offerings and with provisions that require access to particular types or categories of health care providers and facilities;

(5) In this state, the arrangement provides or arranges benefits for health care services in compliance with RCW 48.43.500 through 48.43.535, 48.43.545, and 48.43.550;

(6) The arrangement provides health care services to not less than twenty employers and not less than seventy-five employees;

(7) The arrangement may not solicit participation in the arrangement from the general public. However, the arrangement may employ licensed insurance agents who receive a commission, unlicensed individuals who do not receive a commission, and may contract with a licensed insurance producer who may be paid a commission or other remuneration, for the purpose of enrolling and renewing the enrollments of employers in the arrangement;

(8) The arrangement has been in existence and operated actively for a continuous period of not less than ten years as of December 31, 2003, except for an arrangement that has been in existence and operated actively since December 31, 2000, and is sponsored by an association that has been in existence more than twenty-five years; and

(9) The arrangement is not organized or maintained solely as a conduit for the collection of premiums and the forwarding of premiums to an insurance company.

NEW SECTION. Sec. 6. (1) In addition to the requirements under section 5 of this act, self-funded multiple employer welfare arrangements are subject to the following requirements:

(a) Arrangements must maintain a calendar year for operations and reporting purposes;

(b) Arrangements must satisfy one of the following requirements:

(i)(A) The arrangement must deposit two hundred thousand dollars with the commissioner to be used for the payment of claims in the event that the arrangement becomes insolvent; and

(B) The arrangement must submit to the commissioner a written plan of operation that, in the reasonable discretion of the commissioner, ensures the financial integrity of the arrangement; or

(ii) The arrangement demonstrates to the reasonable satisfaction of the commissioner the ability of the arrangement to remain financially solvent, for which purpose the commissioner may consider:

(A) The pro forma financial statements of the arrangement;

(B) The types and levels of excess of loss insurance coverage, including the attachment points of the coverage and whether the points are reflected as annual or monthly levels;

(C) Whether a deposit is required for each employee covered under the arrangement equal to at least one month's cost of providing benefits under the arrangement;

(D) The experience of the individuals who will be involved in the management of the arrangement, including employees, independent contractors, and consultants; and

(E) Other factors as reasonably determined by the commissioner to be relevant to a determination of whether the arrangement is able to operate in a financially solvent manner.

(2) The commissioner may require that the articles, bylaws, agreements, trusts, or other documents or instruments describing the rights and obligations of

the employers, employees, and beneficiaries of the arrangement provide that employers participating in the arrangement are subject to pro rata assessment for all liabilities of the arrangement.

(3) Self-funded multiple employer welfare arrangements with fewer than one thousand covered persons are required to have aggregate stop loss coverage, with an attachment point of one hundred twenty-five percent of expected claims. If the arrangement is allowed to assess the participating employers to cover actual or projected claims in excess of plan assets, then the attachment point shall be increased by the amount of the allowable assessments. If the required attachment point exceeds one hundred seventy-five percent of expected claims, aggregate stop loss coverage shall be waived. Arrangements with one thousand covered persons or more are not required to have aggregate stop loss coverage.

(4) The arrangement must demonstrate continued compliance with respect to the conditions set forth in this section as a condition of receiving and maintaining a certificate of authority. The commissioner may waive continued compliance with respect to the conditions in this section at any time after the commissioner has granted a certificate of authority to an arrangement.

NEW SECTION. Sec. 7. A self-funded multiple employer welfare arrangement must apply for a certificate of authority on a form prescribed by the commissioner and must submit the application, together with the following documents, to the commissioner:

(1) A copy of all articles, bylaws, agreements, trusts, or other documents or instruments describing the rights and obligations of the employers, employees, and beneficiaries of the arrangement;

(2) A copy of the summary plan description or summary plan descriptions of the arrangement, including those filed or required to be filed with the United States department of labor, together with any amendments to the description;

(3) Evidence of coverage of or letters of intent to participate executed by at least twenty employers providing allowable benefits to at least seventy-five employees;

(4) A copy of the arrangement's most recent year's financial statements that must include, at a minimum, a balance sheet, an income statement, a statement of changes in financial position, and an actuarial opinion signed by a qualified actuary stating that the unpaid claim liability of the arrangement satisfies the standards under this title;

(5) Proof that the arrangement maintains or will maintain fidelity bonds required by the United States department of labor under the employee retirement income security act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(6) A copy of any excess of loss insurance coverage policies maintained or proposed to be maintained by the arrangement;

(7) Biographical reports on forms prescribed by the national association of insurance commissioners evidencing the general trustworthiness and competence of each individual who is serving or who will serve as an officer, director, trustee, employee, or fiduciary of the arrangement;

(8) Fingerprint cards and current fees payable to the Washington state patrol to perform a state and national criminal history background check of any person who exercises control over the financial dealings and operations of the self-funded multiple employer welfare arrangement, including collection of employer contributions, investment of assets, payment of claims, rate setting,

and claims adjudication. The fingerprints and any additional information may be submitted to the federal bureau of investigation and any results of the check must be returned to the office of the insurance commissioner. The results may be disseminated to any governmental agency or entity authorized to receive them; and

(9) A statement executed by a representative of the arrangement certifying, to the best knowledge and belief of the representative, that:

(a) The arrangement is in compliance with section 5 of this act;

(b) The arrangement is in compliance with the requirements of the employee retirement income security act of 1974, 29 U.S.C. Sec. 1001 et seq., or a statement of any requirements with which the arrangement is not in compliance and a statement of proposed corrective actions; and

(c) The arrangement is in compliance with sections 8 and 9 of this act.

NEW SECTION. Sec. 8. Self-funded multiple employer welfare arrangements must maintain continuously a surplus equal to at least ten percent of the next twelve months projected incurred claims or two million dollars, whichever is greater. The commissioner may proceed against self-funded multiple employer welfare arrangements that fail to maintain the level of surplus required by this section in any manner that the commissioner is authorized to proceed against a health care service contractor that failed to maintain minimum net worth.

NEW SECTION. Sec. 9. A self-funded multiple employer welfare arrangement must establish and maintain contribution rates for participation under the arrangement that satisfy either of the following requirements:

(1) Contribution rates must equal or exceed the sum of projected incurred claims for the year, plus all projected costs of operation of the arrangement for the year, plus an amount equal to any deficiency in the surplus of the arrangement for the prior year, minus an amount equal to the surplus of the arrangement in excess of the minimum required level of surplus; or

(2) Contribution rates must equal or exceed a funding level established by a report prepared by a qualified actuary.

NEW SECTION. Sec. 10. (1) The commissioner shall grant or deny an application for a certificate of authority within one hundred eighty days of the date that a completed application, together with the items designated in section 7 of this act, is submitted to the commissioner.

(2) The commissioner shall grant the application of an arrangement that satisfies the applicable requirements of sections 5 through 9 of this act.

(3) The commissioner shall deny the application of an arrangement that does not satisfy the applicable requirements of sections 5 through 9 of this act. Denial of an application for a certificate of authority is subject to appeal under chapter 34.05 RCW.

(4) A certificate of authority granted to an arrangement is effective unless revoked by the commissioner under section 12 of this act.

NEW SECTION. Sec. 11. (1) A self-funded multiple employer welfare arrangement must comply with the reporting requirements of this section.

(2) Every arrangement holding a certificate of authority from the commissioner must file its financial statements as required by this title and by the commissioner in accordance with the accounting practices and procedures

manuals as adopted by the national association of insurance commissioners, unless otherwise provided by law.

(3) Every arrangement must comply with the provisions of chapters 48.12 and 48.13 RCW.

(4) Every arrangement holding a certificate of authority shall, annually, before the first day of March, file with the commissioner a true statement of its financial condition, transactions, and affairs as of the thirty-first day of December of the preceding year. The statement forms must be those forms approved by the national association of insurance commissioners for health insurance. The statement must be verified by the oaths of at least two officers of the arrangement. Additional information may be required by this title or by the request of the commissioner.

(5) Every arrangement must report their annual and other statements in the same manner required of other insurers by rule of the commissioner.

(6) The arrangement must file with the commissioner a copy of the arrangement's internal revenue service form 5500 together with all attachments to the form, at the time required for filing the form.

NEW SECTION. Sec. 12. (1) The commissioner may impose sanctions against a self-funded multiple employer welfare arrangement that fails to comply with this chapter. The maximum fine may not exceed ten thousand dollars for each violation.

(2) The commissioner may issue a notice of intent to revoke the certificate of authority of a self-funded multiple employer welfare arrangement that fails to comply with section 8, 9, or 11 of this act. If, within sixty days of receiving notice under this subsection, the arrangement fails to file with the commissioner a plan to bring the arrangement into compliance with section 8, 9, or 11 of this act, the commissioner may revoke the arrangement's certificate of authority. A revocation of a certificate of authority is subject to appeal under chapter 34.05 RCW.

(3) An arrangement that fails to maintain the level of surplus required by section 8 of this act is subject to the sanctions authorized in RCW 48.44.160 through 48.44.166.

NEW SECTION. Sec. 13. A self-funded multiple employer welfare arrangement organized, operated, providing benefits, or maintained in this state without a certificate of authority is in violation of this title.

NEW SECTION. Sec. 14. Each policy issued by a self-funded multiple employer welfare arrangement must contain, in ten-point type on the front page and the declaration page, the following notice:

"NOTICE

This policy is issued by a self-funded multiple employer welfare arrangement. A self-funded multiple employer welfare arrangement may not be subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for a self-funded multiple employer welfare arrangement."

NEW SECTION. Sec. 15. A self-funded multiple employer welfare arrangement is subject to RCW 48.43.300 through 48.43.370, the rehabilitation provisions under chapter 48.31 RCW, and chapter 48.99 RCW.

NEW SECTION. Sec. 16. (1) The commissioner may make an examination of the operations of any self-funded multiple employer welfare arrangement as often as he or she deems necessary in order to carry out the purposes of this chapter.

(2) Every self-funded multiple employer welfare arrangement shall submit its books and records relating to its operation for financial condition and market conduct examinations and in every way facilitate them. For the purpose of examinations, the commissioner may issue subpoenas, administer oaths, and examine the officers and principals of the multiple employer welfare arrangement.

(3) The commissioner may elect to accept and rely on audit reports made by an independent certified public accountant for the self-funded multiple employer welfare arrangement in the course of that part of the commissioner's examination covering the same general subject matter as the audit. The commissioner may incorporate the audit report in his or her report of the examination.

(4)(a) The commissioner may also examine any affiliate of the self-funded multiple employer welfare arrangement. An examination of an affiliate is limited to the activities or operations of the affiliate that may impact the financial position of the arrangement.

(b) For the purposes of this section, "affiliate" has the same meaning as defined in RCW 48.31C.010.

(5) Whenever an examination is made, all of the provisions of chapter 48.03 RCW not inconsistent with this chapter shall be applicable. In lieu of making an examination himself or herself, the commissioner may, in the case of a foreign self-funded multiple employer welfare arrangement, accept an examination report of the applicant by the regulatory official in its state of domicile. In the case of a domestic self-funded multiple employer welfare arrangement, the commissioner may accept an examination report of the applicant by the regulatory official of a state that has already licensed the arrangement.

NEW SECTION. Sec. 17. This chapter does not apply to:

- (1) Single employer entities;
- (2) Taft-Hartley plans; or
- (3) Self-funded multiple employer welfare arrangements that do not provide coverage for health care services.

NEW SECTION. Sec. 18. Participant contributions used to determine the taxable amounts in this state under RCW 48.14.0201 shall be determined in the same manner as premiums taxable in this state are determined under RCW 48.14.090.

NEW SECTION. Sec. 19. A new section is added to chapter 48.43 RCW to be codified between RCW 48.43.300 and 48.43.370 to read as follows:

A self-funded multiple employer welfare arrangement, as defined in section 3 of this act, is subject to the same RBC reporting requirements as a domestic carrier under RCW 48.43.300 through 48.43.370.

NEW SECTION. Sec. 20. A new section is added to chapter 48.31 RCW to read as follows:

A self-funded multiple employer welfare arrangement, as defined in section 3 of this act, is an insurer under this chapter.

NEW SECTION. Sec. 21. A new section is added to chapter 48.99 RCW to read as follows:

A self-funded multiple employer welfare arrangement, as defined in section 3 of this act, is an insurer under this chapter.

Sec. 22. RCW 48.02.190 and 2003 1st sp.s. c 25 s 923 are each amended to read as follows:

(1) As used in this section:

(a) "Organization" means every insurer, as defined in RCW 48.01.050, having a certificate of authority to do business in this state and every health care service contractor or multiple employer welfare arrangement registered to do business in this state. "Class one" organizations shall consist of all insurers as defined in RCW 48.01.050. "Class two" organizations shall consist of all organizations registered under provisions of chapter 48.44 RCW. "Class three" organizations shall consist of self-funded multiple employer welfare arrangements as defined in section 3 of this act.

(b)(i) "Receipts" means ((+)) (A) net direct premiums consisting of direct gross premiums, as defined in RCW 48.18.170, paid for insurance written or renewed upon risks or property resident, situated, or to be performed in this state, less return premiums and premiums on policies not taken, dividends paid or credited to policyholders on direct business, and premiums received from policies or contracts issued in connection with qualified plans as defined in RCW 48.14.021, and ((+)) (B) prepayments to health care service contractors as set forth in RCW 48.44.010(3) or participant contributions to self-funded multiple employer welfare arrangements as defined in section 3 of this act less experience rating credits, dividends, prepayments returned to subscribers, and payments for contracts not taken.

(ii) Participant contributions, under chapter 48.— RCW (sections 1 through 18 of this act), used to determine the receipts in this state under this section shall be determined in the same manner as premiums taxable in this state are determined under RCW 48.14.090.

(2) The annual cost of operating the office of insurance commissioner shall be determined by legislative appropriation. A pro rata share of the cost shall be charged to all organizations. Each class of organization shall contribute sufficient in fees to the insurance commissioner's regulatory account to pay the reasonable costs, including overhead, of regulating that class of organization.

(3) Fees charged shall be calculated separately for each class of organization. The fee charged each organization shall be that portion of the cost of operating the insurance commissioner's office, for that class of organization, for the ensuing fiscal year that is represented by the organization's portion of the receipts collected or received by all organizations within that class on business in this state during the previous calendar year: PROVIDED, That the fee shall not exceed one-eighth of one percent of receipts: PROVIDED FURTHER, That the minimum fee shall be one thousand dollars.

(4) The commissioner shall annually, on or before June 1, calculate and bill each organization for the amount of its fee. Fees shall be due and payable no later than June 15 of each year: PROVIDED, That if the necessary financial records are not available or if the amount of the legislative appropriation is not determined in time to carry out such calculations and bill such fees within the time specified, the commissioner may use the fee factors for the prior year as the

basis for the fees and, if necessary, the commissioner may impose supplemental fees to fully and properly charge the organizations. The penalties for failure to pay fees when due shall be the same as the penalties for failure to pay taxes pursuant to RCW 48.14.060. The fees required by this section are in addition to all other taxes and fees now imposed or that may be subsequently imposed.

(5) All moneys collected shall be deposited in the insurance commissioner's regulatory account in the state treasury which is hereby created.

(6) Unexpended funds in the insurance commissioner's regulatory account at the close of a fiscal year shall be carried forward in the insurance commissioner's regulatory account to the succeeding fiscal year and shall be used to reduce future fees. During the 2003-2005 fiscal biennium, the legislature may transfer from the insurance commissioner's regulatory account to the state general fund such amounts as reflect excess fund balance in the account.

Sec. 23. RCW 48.03.060 and 1995 c 152 s 2 are each amended to read as follows:

(1) Examinations within this state of any insurer or self-funded multiple employer welfare arrangement as defined in section 3 of this act domiciled or having its home offices in this state, other than a title insurer, made by the commissioner or the commissioner's examiners and employees shall, except as to fees, mileage, and expense incurred as to witnesses, be at the expense of the state.

(2) Every other examination, whatsoever, or any part of the examination of any person domiciled or having its home offices in this state requiring travel and services outside this state, shall be made by the commissioner or by examiners designated by the commissioner and shall be at the expense of the person examined; but a domestic insurer shall not be liable for the compensation of examiners employed by the commissioner for such services outside this state.

(3) When making an examination under this chapter, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the cost of which shall be borne by the person who is the subject of the examination, except as provided in subsection (1) of this section.

(4) The person examined and liable therefor shall reimburse the state upon presentation of an itemized statement thereof, for the actual travel expenses of the commissioner's examiners, their reasonable living expense allowance, and their per diem compensation, including salary and the employer's cost of employee benefits, at a reasonable rate approved by the commissioner, incurred on account of the examination. Per diem salary and expenses for employees examining insurers domiciled outside the state of Washington shall be established by the commissioner on the basis of the National Association of Insurance Commissioner's recommended salary and expense schedule for zone examiners, or the salary schedule established by the Washington personnel resources board and the expense schedule established by the office of financial management, whichever is higher. A domestic title insurer shall pay the examination expense and costs to the commissioner as itemized and billed by the commissioner.

The commissioner or the commissioner's examiners shall not receive or accept any additional emolument on account of any examination.

(5) Nothing contained in this chapter limits the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action under the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination are prima facie evidence in any legal or regulatory action.

Sec. 24. RCW 48.14.0201 and 1998 c 323 s 1 are each amended to read as follows:

(1) As used in this section, "taxpayer" means a health maintenance organization~~((;))~~ as defined in RCW 48.46.020, ~~((or))~~ a health care service contractor~~((;))~~ as defined in RCW 48.44.010, or a self-funded multiple employer welfare arrangement as defined in section 3 of this act.

(2) Each taxpayer shall pay a tax on or before the first day of March of each year to the state treasurer through the insurance commissioner's office. The tax shall be equal to the total amount of all premiums and prepayments for health care services received by the taxpayer during the preceding calendar year multiplied by the rate of two percent.

(3) Taxpayers shall prepay their tax obligations under this section. The minimum amount of the prepayments shall be percentages of the taxpayer's tax obligation for the preceding calendar year recomputed using the rate in effect for the current year. For the prepayment of taxes due during the first calendar year, the minimum amount of the prepayments shall be percentages of the taxpayer's tax obligation that would have been due had the tax been in effect during the previous calendar year. The tax prepayments shall be paid to the state treasurer through the commissioner's office by the due dates and in the following amounts:

- (a) On or before June 15, forty-five percent;
- (b) On or before September 15, twenty-five percent;
- (c) On or before December 15, twenty-five percent.

(4) For good cause demonstrated in writing, the commissioner may approve an amount smaller than the preceding calendar year's tax obligation as recomputed for calculating the health maintenance organization's, health care service contractor's, self-funded multiple employer welfare arrangement's or certified health plan's prepayment obligations for the current tax year.

(5) Moneys collected under this section shall be deposited in the general fund through March 31, 1996, and in the health services account under RCW 43.72.900 after March 31, 1996.

(6) The taxes imposed in this section do not apply to:

(a) Amounts received by any taxpayer from the United States or any instrumentality thereof as prepayments for health care services provided under Title XVIII (medicare) of the federal social security act.

(b) Amounts received by any health care service contractor, as defined in RCW 48.44.010, as prepayments for health care services included within the definition of practice of dentistry under RCW 18.32.020.

(c) Participant contributions to self-funded multiple employer welfare arrangements that are not taxable in this state.

(7) Beginning January 1, 2000, the state does hereby preempt the field of imposing excise or privilege taxes upon taxpayers and no county, city, town, or other municipal subdivision shall have the right to impose any such taxes upon such taxpayers. This subsection shall be limited to premiums and payments for

health benefit plans offered by health care service contractors under chapter 48.44 RCW (~~and~~), health maintenance organizations under chapter 48.46 RCW, and self-funded multiple employer welfare arrangements as defined in section 3 of this act. The preemption authorized by this subsection shall not impair the ability of a county, city, town, or other municipal subdivision to impose excise or privilege taxes upon the health care services directly delivered by the employees of a health maintenance organization under chapter 48.46 RCW.

(8) The taxes imposed by this section apply to a self-funded multiple employer welfare arrangement only in the event that they are not preempted by the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq. The arrangements and the commissioner shall initially request an advisory opinion from the United States department of labor or obtain a declaratory ruling from a federal court on the legality of imposing state premium taxes on these arrangements. If there has not been a final determination by the United States department of labor or a federal court that the taxes are not preempted by federal law, the taxes provided for in this section become effective on March 1, 2005, or thirty days following the issuance of a certificate of authority, whichever is later. During the time period between March 1, 2005, or thirty days following the issuance of a certificate of authority, whichever is later, and the final determination by the United States department of labor or a federal court, any taxes shall be deposited in an interest bearing escrow account maintained by the multiple employer welfare arrangement. Upon a final determination that the taxes are not preempted by the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., all funds in the interest bearing escrow account shall be transferred to the state treasurer.

Sec. 25. RCW 48.41.030 and 2001 c 196 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Accounting year" means a twelve-month period determined by the board for purposes of record-keeping and accounting. The first accounting year may be more or less than twelve months and, from time to time in subsequent years, the board may order an accounting year of other than twelve months as may be required for orderly management and accounting of the pool.

(2) "Administrator" means the entity chosen by the board to administer the pool under RCW 48.41.080.

(3) "Board" means the board of directors of the pool.

(4) "Commissioner" means the insurance commissioner.

(5) "Covered person" means any individual resident of this state who is eligible to receive benefits from any member, or other health plan.

(6) "Health care facility" has the same meaning as in RCW 70.38.025.

(7) "Health care provider" means any physician, facility, or health care professional, who is licensed in Washington state and entitled to reimbursement for health care services.

(8) "Health care services" means services for the purpose of preventing, alleviating, curing, or healing human illness or injury.

(9) "Health carrier" or "carrier" has the same meaning as in RCW 48.43.005.

(10) "Health coverage" means any group or individual disability insurance policy, health care service contract, and health maintenance agreement, except those contracts entered into for the provision of health care services pursuant to Title XVIII of the Social Security Act, 42 U.S.C. Sec. 1395 et seq. The term does not include short-term care, long-term care, dental, vision, accident, fixed indemnity, disability income contracts, limited benefit or credit insurance, coverage issued as a supplement to liability insurance, insurance arising out of the worker's compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(11) "Health plan" means any arrangement by which persons, including dependents or spouses, covered or making application to be covered under this pool, have access to hospital and medical benefits or reimbursement including any group or individual disability insurance policy; health care service contract; health maintenance agreement; uninsured arrangements of group or group-type contracts including employer self-insured, cost-plus, or other benefit methodologies not involving insurance or not governed by Title 48 RCW; coverage under group-type contracts which are not available to the general public and can be obtained only because of connection with a particular organization or group; and coverage by medicare or other governmental benefits. This term includes coverage through "health coverage" as defined under this section, and specifically excludes those types of programs excluded under the definition of "health coverage" in subsection (10) of this section.

(12) "Medical assistance" means coverage under Title XIX of the federal Social Security Act (42 U.S.C., Sec. 1396 et seq.) and chapter 74.09 RCW.

(13) "Medicare" means coverage under Title XVIII of the Social Security Act, (42 U.S.C. Sec. 1395 et seq., as amended).

(14) "Member" means any commercial insurer which provides disability insurance or stop loss insurance, any health care service contractor, ~~((and))~~ any health maintenance organization licensed under Title 48 RCW, and any self-funded multiple employer welfare arrangement as defined in section 3 of this act. "Member" also means the Washington state health care authority as issuer of the state uniform medical plan. "Member" shall also mean, as soon as authorized by federal law, employers and other entities, including a self-funding entity and employee welfare benefit plans that provide health plan benefits in this state on or after May 18, 1987. "Member" does not include any insurer, health care service contractor, or health maintenance organization whose products are exclusively dental products or those products excluded from the definition of "health coverage" set forth in subsection (10) of this section.

(15) "Network provider" means a health care provider who has contracted in writing with the pool administrator or a health carrier contracting with the pool administrator to offer pool coverage to accept payment from and to look solely to the pool or health carrier according to the terms of the pool health plans.

(16) "Plan of operation" means the pool, including articles, by-laws, and operating rules, adopted by the board pursuant to RCW 48.41.050.

(17) "Point of service plan" means a benefit plan offered by the pool under which a covered person may elect to receive covered services from network providers, or nonnetwork providers at a reduced rate of benefits.

(18) "Pool" means the Washington state health insurance pool as created in RCW 48.41.040.

Sec. 26. RCW 48.41.060 and 2000 c 79 s 9 are each amended to read as follows:

(1) The board shall have the general powers and authority granted under the laws of this state to insurance companies, health care service contractors, and health maintenance organizations, licensed or registered to offer or provide the kinds of health coverage defined under this title. In addition thereto, the board shall:

(a) Designate or establish the standard health questionnaire to be used under RCW 48.41.100 and 48.43.018, including the form and content of the standard health questionnaire and the method of its application. The questionnaire must provide for an objective evaluation of an individual's health status by assigning a discreet measure, such as a system of point scoring to each individual. The questionnaire must not contain any questions related to pregnancy, and pregnancy shall not be a basis for coverage by the pool. The questionnaire shall be designed such that it is reasonably expected to identify the eight percent of persons who are the most costly to treat who are under individual coverage in health benefit plans, as defined in RCW 48.43.005, in Washington state or are covered by the pool, if applied to all such persons;

(b) Obtain from a member of the American academy of actuaries, who is independent of the board, a certification that the standard health questionnaire meets the requirements of (a) of this subsection;

(c) Approve the standard health questionnaire and any modifications needed to comply with this chapter. The standard health questionnaire shall be submitted to an actuary for certification, modified as necessary, and approved at least every eighteen months. The designation and approval of the standard health questionnaire by the board shall not be subject to review and approval by the commissioner. The standard health questionnaire or any modification thereto shall not be used until ninety days after public notice of the approval of the questionnaire or any modification thereto, except that the initial standard health questionnaire approved for use by the board after March 23, 2000, may be used immediately following public notice of such approval;

(d) Establish appropriate rates, rate schedules, rate adjustments, expense allowances, claim reserve formulas and any other actuarial functions appropriate to the operation of the pool. Rates shall not be unreasonable in relation to the coverage provided, the risk experience, and expenses of providing the coverage. Rates and rate schedules may be adjusted for appropriate risk factors such as age and area variation in claim costs and shall take into consideration appropriate risk factors in accordance with established actuarial underwriting practices consistent with Washington state individual plan rating requirements under RCW 48.44.022 and 48.46.064;

(e) Assess members of the pool in accordance with the provisions of this chapter, and make advance interim assessments as may be reasonable and necessary for the organizational or interim operating expenses. Any interim assessments will be credited as offsets against any regular assessments due following the close of the year. Self-funded multiple employer welfare arrangements are subject to assessment under this subsection only in the event that assessments are not preempted by the employee retirement income security

act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq. The arrangements and the commissioner shall initially request an advisory opinion from the United States department of labor or obtain a declaratory ruling from a federal court on the legality of imposing assessments on these arrangements before imposing the assessment. If there has not been a final determination by the United States department of labor or a federal court that the assessments are not preempted by federal law, the assessments provided for in this subsection become effective on March 1, 2005, or thirty days following the issuance of a certificate of authority, whichever is later. During the time period between March 1, 2005, or thirty days following the issuance of a certificate of authority, whichever is later, and the final determination by the United States department of labor or a federal court, any assessments shall be deposited in an interest bearing escrow account maintained by the multiple employer welfare arrangement. Upon a final determination that the assessments are not preempted by the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., all funds in the interest bearing escrow account shall be transferred to the board;

(f) Issue policies of health coverage in accordance with the requirements of this chapter;

(g) Establish procedures for the administration of the premium discount provided under RCW 48.41.200(3)(a)(iii);

(h) Contract with the Washington state health care authority for the administration of the premium discounts provided under RCW 48.41.200(3)(a)(i) and (ii);

(i) Set a reasonable fee to be paid to an insurance agent licensed in Washington state for submitting an acceptable application for enrollment in the pool; and

(j) Provide certification to the commissioner when assessments will exceed the threshold level established in RCW 48.41.037.

(2) In addition thereto, the board may:

(a) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this chapter including the authority, with the approval of the commissioner, to enter into contracts with similar pools of other states for the joint performance of common administrative functions, or with persons or other organizations for the performance of administrative functions;

(b) Sue or be sued, including taking any legal action as necessary to avoid the payment of improper claims against the pool or the coverage provided by or through the pool;

(c) Appoint appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the pool, policy, and other contract design, and any other function within the authority of the pool; and

(d) Conduct periodic audits to assure the general accuracy of the financial data submitted to the pool, and the board shall cause the pool to have an annual audit of its operations by an independent certified public accountant.

(3) Nothing in this section shall be construed to require or authorize the adoption of rules under chapter 34.05 RCW.

NEW SECTION. Sec. 27. Sections 1 through 18 of this act constitute a new chapter in Title 48 RCW.

NEW SECTION. Sec. 28. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 29. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 10, 2004.

Passed by the House March 9, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 261

[Senate Bill 6485]

HOSPITALS—PILOT PROJECT—SURVEYS

AN ACT Relating to improving the regulatory environment for hospitals; amending RCW 70.41.080, 70.41.120, 70.38.105, and 70.44.240; adding new sections to chapter 70.41 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. (1) The department of health, in cooperation with the Washington state hospital association, shall oversee a pilot project to implement and evaluate strategies to reduce the burden on hospitals, and improve the quality and efficiency, of hospital surveys or audits.

(2) The pilot project shall also include the state auditor's office, the department of revenue, the department of social and health services, the state board of pharmacy, the department of ecology, the office of the state fire marshal, the department of labor and industries, local building and fire officials, and the joint commission on accreditation of health care organizations.

(3) Strategies to be implemented and evaluated by the pilot project include, but are not limited to, providing notice of survey and audit visits, consolidation of survey and audit visits, coordination of separate survey and audit visits, deeming of one agency's visits for another, using a combined entrance meeting with hospital management, identifying a standard set of documents to be available for all surveys and audits, and minimizing duplication of required documents.

(4) The department of health shall report to the legislature by December 1, 2004, regarding the results of the pilot project and the strategies identified for adoption on a statewide basis to improve the regulatory environment for hospitals while assuring the safety and well-being of patients and full compliance with relevant state and local laws.

NEW SECTION. Sec. 2. A new section is added to chapter 70.41 RCW to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Agency" means a department of state government created under RCW 43.17.010 and the office of the state auditor.

(b) "Audit" means an examination of records or financial accounts to evaluate accuracy and monitor compliance with statutory or regulatory requirements.

(c) "Hospital" means a hospital licensed under chapter 70.41 RCW.

(d) "Survey" means an inspection, examination, or site visit conducted by an agency to evaluate and monitor the compliance of a hospital or hospital services or facilities with statutory or regulatory requirements.

(2) By July 1, 2004, each state agency which conducts hospital surveys or audits shall post to its agency web site a list of the most frequent problems identified in its hospital surveys or audits along with information on how to avoid or address the identified problems, and a person within the agency that a hospital may contact with questions or for further assistance.

(3) By July 1, 2004, the department of health, in cooperation with other state agencies which conduct hospital surveys or audits, shall develop an instrument, to be provided to every hospital upon completion of a state survey or audit, which allows the hospital to anonymously evaluate the survey or audit process in terms of quality, efficacy, and the extent to which it supported improved patient care and compliance with state law without placing an unnecessary administrative burden on the hospital. The evaluation may be returned to the department of health for distribution to the appropriate agency. The department of health shall annually compile the evaluations in a report to the legislature.

(4) Except when responding to complaints or immediate public health and safety concerns or when such prior notice would conflict with other state or federal law, any state agency that provides notice of a hospital survey or audit must provide such notice to the hospital no less than four weeks prior to the date of the survey or audit.

Sec. 3. RCW 70.41.080 and 1995 c 369 s 40 are each amended to read as follows:

Standards for fire protection and the enforcement thereof, with respect to all hospitals to be licensed hereunder shall be the responsibility of the chief of the Washington state patrol, through the director of fire protection, who shall adopt, after approval by the department, such recognized standards as may be applicable to hospitals for the protection of life against the cause and spread of fire and fire hazards. Such standards shall be consistent with the standards adopted by the federal centers for medicare and medicaid services for hospitals that care for medicare or medicaid beneficiaries. The department upon receipt of an application for a license, shall submit to the director of fire protection in writing, a request for an inspection, giving the applicant's name and the location of the premises to be licensed. Upon receipt of such a request, the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, shall make an inspection of the hospital to be licensed, and if it is found that the premises do not comply with the required safety standards and fire regulations as adopted pursuant to this chapter, he or she shall promptly make a written report to the hospital and to the department listing the corrective actions required and the time allowed for accomplishing such corrections. The applicant or licensee shall notify the chief of the Washington state patrol, through the director of fire protection, upon completion of any corrections required by him or her, and the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, shall make a reinspection of such premises.

Whenever the hospital to be licensed meets with the approval of the chief of the Washington state patrol, through the director of fire protection, he or she shall submit to the department a written report approving the hospital with respect to fire protection, and such report is required before a full license can be issued. The chief of the Washington state patrol, through the director of fire protection, shall make or cause to be made inspections of such hospitals at least once a year.

In cities which have in force a comprehensive building code, the provisions of which are determined by the chief of the Washington state patrol, through the director of fire protection, to be equal to the minimum standards of the code for hospitals adopted by the chief of the Washington state patrol, through the director of fire protection, the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection with the chief of the Washington state patrol, through the director of fire protection, or his or her deputy and they shall jointly approve the premises before a full license can be issued.

Sec. 4. RCW 70.41.120 and 1995 c 282 s 4 are each amended to read as follows:

The department shall make or cause to be made at least yearly an inspection of all hospitals. Every inspection of a hospital may include an inspection of every part of the premises. The department may make an examination of all phases of the hospital operation necessary to determine compliance with the law and the standards, rules and regulations adopted thereunder. Any licensee or applicant desiring to make alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition or new construction, comply with the regulations prescribed by the department.

No hospital licensed pursuant to the provisions of this chapter shall be required to be inspected or licensed under other state laws or rules and regulations promulgated thereunder, or local ordinances, relative to motels, restaurants, lodging houses, boarding houses, places of refreshment, nursing homes, maternity homes, or psychiatric hospitals.

To avoid unnecessary duplication in inspections, the department shall coordinate with the department of social and health services, the office of the state fire marshal, and local agencies when inspecting facilities over which ~~((both agencies have))~~ each agency has jurisdiction, the facilities including but not necessarily being limited to hospitals with both acute care and skilled nursing or psychiatric nursing functions. The department shall notify the office of the state fire marshal and the relevant local agency at least four weeks prior to any inspection conducted under this section and invite their attendance at the inspection, and shall provide a copy of its inspection report to each agency upon completion.

NEW SECTION. Sec. 5. A new section is added to chapter 70.41 RCW to read as follows:

(1) The department shall coordinate its hospital construction review process with other state and local agencies having similar review responsibilities, including the department of labor and industries, the office of the state fire marshal, and local building and fire officials. Inconsistencies or conflicts among the agencies shall be identified and eliminated. The department shall provide

local agencies with relevant information derived from its construction review process.

(2) By September 1, 2004, the department shall report to the legislature regarding its implementation of subsection (1) of this section.

Sec. 6. RCW 70.38.105 and 1996 c 50 s 1 are each amended to read as follows:

(1) The department is authorized and directed to implement the certificate of need program in this state pursuant to the provisions of this chapter.

(2) There shall be a state certificate of need program which is administered consistent with the requirements of federal law as necessary to the receipt of federal funds by the state.

(3) No person shall engage in any undertaking which is subject to certificate of need review under subsection (4) of this section without first having received from the department either a certificate of need or an exception granted in accordance with this chapter.

(4) The following shall be subject to certificate of need review under this chapter:

(a) The construction, development, or other establishment of a new health care facility;

(b) The sale, purchase, or lease of part or all of any existing hospital as defined in RCW 70.38.025;

(c) Any capital expenditure for the construction, renovation, or alteration of a nursing home which substantially changes the services of the facility after January 1, 1981, provided that the substantial changes in services are specified by the department in rule;

(d) Any capital expenditure for the construction, renovation, or alteration of a nursing home which exceeds the expenditure minimum as defined by RCW 70.38.025. However, a capital expenditure which is not subject to certificate of need review under (a), (b), (c), or (e) of this subsection and which is solely for any one or more of the following is not subject to certificate of need review:

(i) Communications and parking facilities;

(ii) Mechanical, electrical, ventilation, heating, and air conditioning systems;

(iii) Energy conservation systems;

(iv) Repairs to, or the correction of, deficiencies in existing physical plant facilities which are necessary to maintain state licensure, however, other additional repairs, remodeling, or replacement projects that are not related to one or more deficiency citations and are not necessary to maintain state licensure are not exempt from certificate of need review except as otherwise permitted by (d)(vi) of this subsection or RCW 70.38.115(13);

(v) Acquisition of equipment, including data processing equipment, which is not or will not be used in the direct provision of health services;

(vi) Construction or renovation at an existing nursing home which involves physical plant facilities, including administrative, dining areas, kitchen, laundry, therapy areas, and support facilities, by an existing licensee who has operated the beds for at least one year;

(vii) Acquisition of land; and

(viii) Refinancing of existing debt;

(e) A change in bed capacity of a health care facility which increases the total number of licensed beds or redistributes beds among acute care, nursing home care, and boarding home care if the bed redistribution is to be effective for a period in excess of six months, or a change in bed capacity of a rural health care facility licensed under RCW 70.175.100 that increases the total number of nursing home beds or redistributes beds from acute care or boarding home care to nursing home care if the bed redistribution is to be effective for a period in excess of six months. A health care facility certified as a critical access hospital under 42 U.S.C. 1395i-4 may increase its total number of licensed beds to the total number of beds ermitted under 42 U.S.C. 1395i-4 for acute care and ma redistribute beds permitted under 42 U.S.C. 1395i-4 among acute care and nursing home care without being subject to certificate of need review. If there is a nursing home licensed under chapter 18.51 RCW within twenty-seven miles of the critical access hospital, the critical access hospital is subject to certificate of need review except for:

(i) Critical access hospitals which had designated beds to provide nursing home care, in excess of five swing beds, prior to December 31, 2003; or

(ii) Up to five swing beds.

Critical access hospital beds not subject to certificate of need review under this subsection (4)(e) will not be counted as either acute care or nursing home care for certificate of need review purposes. If a health care facility ceases to be certified as a critical access hospital under 42 U.S.C. 1395i-4, the hospital may revert back to the type and number of licensed hospital beds as it had when it requested critical access hospital designation;

(f) Any new tertiary health services which are offered in or through a health care facility or rural health care facility licensed under RCW 70.175.100, and which were not offered on a regular basis by, in, or through such health care facility or rural health care facility within the twelve-month period prior to the time such services would be offered;

(g) Any expenditure for the construction, renovation, or alteration of a nursing home or change in nursing home services in excess of the expenditure minimum made in preparation for any undertaking under subsection (4) of this section and any arrangement or commitment made for financing such undertaking. Expenditures of preparation shall include expenditures for architectural designs, plans, working drawings, and specifications. The department may issue certificates of need permitting predevelopment expenditures, only, without authorizing any subsequent undertaking with respect to which such predevelopment expenditures are made; and

(h) Any increase in the number of dialysis stations in a kidney disease center.

(5) The department is authorized to charge fees for the review of certificate of need applications and requests for exemptions from certificate of need review. The fees shall be sufficient to cover the full cost of review and exemption, which may include the development of standards, criteria, and policies.

(6) No person may divide a project in order to avoid review requirements under any of the thresholds specified in this section.

Sec. 7. RCW 70.44.240 and 1997 c 332 s 16 are each amended to read as follows:

Any public hospital district may contract or join with any other public hospital district, ~~((any))~~ publicly owned hospital, ~~((any))~~ nonprofit hospital, ~~((any corporation, any other))~~ legal entity, or individual to acquire, own, operate, manage, or provide any hospital or other health care facilities or hospital services or other health care services to be used by individuals, districts, hospitals, or others, including ~~((the))~~ providing ~~((of))~~ health maintenance services. If a public hospital district chooses to contract or join with another party or parties pursuant to the provisions of this chapter, it may do so through ~~((the establishment of))~~ establishing a nonprofit corporation, partnership, limited liability company, or other legal entity of its choosing in which the public hospital district and the other party or parties participate. The governing body of such legal entity shall include representatives of the public hospital district, ~~((including))~~ which representatives may include members of the public hospital district's board of commissioners. A public hospital district contracting or joining with another party pursuant to the provisions of this chapter may appropriate funds and may sell, lease, or otherwise provide property, personnel, and services to the legal entity established to carry out the contract or joint activity.

Passed by the Senate March 11, 2004.

Passed by the House March 10, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 262

[Engrossed Substitute Senate Bill 6554]

HEALTH CARE PROVIDERS

AN ACT Relating to eliminating credentialing barriers for health professions; amending RCW 18.06.050, 18.29.190, 18.29.180, 18.34.070, 18.79.160, 18.83.050, 18.83.070, 18.83.072, 18.83.082, 18.83.170, 18.89.050, and 18.89.110; adding a new section to chapter 18.79 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that the health care work force shortage is contributing to the health care crisis. The legislature also finds that some unnecessary barriers exist that slow or prevent qualified applicants from becoming credentialed health care providers. The legislature further finds that eliminating these initial barriers to licensure will contribute to state initiatives directed toward easing the health care personnel shortage in Washington.

Sec. 2. RCW 18.06.050 and 1991 c 3 s 7 are each amended to read as follows:

Any person seeking to be examined shall present to the secretary at least forty-five days before the commencement of the examination:

(1) A written application on a form or forms provided by the secretary setting forth under affidavit such information as the secretary may require; and

(2) Proof that the candidate has:

(a) Successfully completed a course, approved by the secretary, of didactic training in basic sciences and acupuncture over a minimum period of two

academic years. The training shall include such subjects as anatomy, physiology, (~~bacteriology~~) microbiology, biochemistry, pathology, hygiene, and a survey of western clinical sciences. The basic science classes must be equivalent to those offered at the collegiate level. However, if the applicant is a licensed chiropractor under chapter 18.25 RCW or a naturopath licensed under chapter 18.36A RCW, the requirements of this subsection relating to basic sciences may be reduced by up to one year depending upon the extent of the candidate's qualifications as determined under rules adopted by the secretary;

(b) Successfully completed (~~a course, approved by the secretary~~) five hundred hours of clinical training in acupuncture (~~over a minimum period of one academic year. The training shall include a minimum of: (i) Twenty-nine quarter credits of supervised practice, consisting of at least four hundred separate patient treatments involving a minimum of one hundred different patients, and (ii) one hundred hours or nine quarter credits of observation which shall include case presentation and discussion~~) that is approved by the secretary.

Sec. 3. RCW 18.29.190 and 1993 c 323 s 2 are each amended to read as follows:

(1) The department shall issue (~~a temporary~~) an initial limited license without the examination required by this chapter to any applicant who, as determined by the secretary:

(a) Holds a valid license in another state that allows the scope of practice in subsection (3) (a) through (j) of this section;

(b) Is currently engaged in active practice in another state. For the purposes of this section, "active practice" means five hundred sixty hours of practice in the preceding twenty-four months;

(c) Files with the secretary documentation certifying that the applicant:

(i) Has graduated from an accredited dental hygiene school approved by the secretary;

(ii) Has successfully completed the dental hygiene national board examination; and

(iii) Is licensed to practice in another state;

(d) Provides information as the secretary deems necessary pertaining to the conditions and criteria of the uniform disciplinary act, chapter 18.130 RCW;

(e) Demonstrates to the secretary a knowledge of Washington state law pertaining to the practice of dental hygiene, including the administration of legend drugs;

(f) Pays any required fees; and

(g) Meets requirements for AIDS education.

(2) The term of the (~~temporary~~) initial limited license issued under this section is eighteen months and it is (~~nonrenewable~~) renewable upon demonstration of successful passage of the examination for administering local anesthetic and nitrous oxide/oxygen analgesia.

(3) A person practicing with (~~a temporary~~) an initial limited license granted under this section has the authority to perform hygiene procedures that are limited to:

(a) Oral inspection and measuring of periodontal pockets;

(b) Patient education in oral hygiene;

(c) Taking intra-oral and extra-oral radiographs;

(d) Applying topical preventive or prophylactic agents;

- (e) Polishing and smoothing restorations;
 - (f) Oral prophylaxis and removal of deposits and stains from the surface of the teeth;
 - (g) Recording health histories;
 - (h) Taking and recording blood pressure and vital signs;
 - (i) Performing subgingival and supragingival scaling; and
 - (j) Performing root planing.
- (4)(a) A person practicing with ~~((a-temporary))~~ an initial limited license granted under this section may not perform the following dental hygiene procedures unless authorized in (b) or (c) of this subsection:

- (i) Give injections of local anesthetic;
 - (ii) Place restorations into the cavity prepared by a licensed dentist and afterwards carve, contour, and adjust contacts and occlusion of the restoration;
 - (iii) Soft tissue curettage; or
 - (iv) Administer nitrous oxide/oxygen analgesia.
- (b) A person licensed in another state who can demonstrate substantively equivalent licensing standards in the administration of local anesthetic may receive a temporary endorsement to administer local anesthesia.
- (c) A person licensed in another state who can demonstrate substantively equivalent licensing standards in restorative procedures may receive a temporary endorsement for restorative procedures.

(5)(a) A person practicing with a renewed limited license granted under this section may:

- (i) Perform hygiene procedures as provided under subsection (3) of this section;
- (ii) Give injections of local anesthetic;
- (iii) Perform soft tissue curettage; and
- (iv) Administer nitrous oxide/oxygen analgesia.

(b) A person practicing with a renewed limited license granted under this section may not place restorations into the cavity prepared by a licensed dentist and afterwards carve, contour, and adjust contacts and occlusion of the restoration.

Sec. 4. RCW 18.29.180 and 1991 c 3 s 57 are each amended to read as follows:

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

(1) The practice of dental hygiene in the discharge of official duties by dental hygienists in the United States armed services, coast guard, public health services, veterans' bureau, or bureau of Indian affairs;

(2) Dental hygiene programs approved by the secretary and the practice of dental hygiene by students in dental hygiene programs approved by the secretary, when acting under the direction and supervision of persons licensed under chapter 18.29 or 18.32 RCW acting as instructors;

(3) The practice of dental hygiene by students in accredited dental hygiene educational programs when acting under the direction and supervision of instructors licensed under chapter 18.29 or 18.32 RCW.

Sec. 5. RCW 18.34.070 and 1991 c 3 s 76 are each amended to read as follows:

Any applicant for a license shall be examined if he or she pays an examination fee determined by the secretary as provided in RCW 43.70.250 and certifies under oath that he or she:

- (1) Is eighteen years or more of age; and
- (2) Has graduated from an accredited high school; and
- (3) ~~((Is a citizen of the United States or has declared his or her intention of becoming such citizen in accordance with law; and~~
- ~~(4)))~~ Is of good moral character; and
- ~~((5)))~~ (4) Has either:
 - (a) Had at least three years of apprenticeship training; or
 - (b) Successfully completed a prescribed course in opticianry in a college or university approved by the secretary; or
 - (c) Been principally engaged in practicing as a dispensing optician not in the state of Washington for five years.

Sec. 6. RCW 18.79.160 and 1994 sp.s. c 9 s 416 are each amended to read as follows:

(1) An applicant for a license to practice as a registered nurse shall submit to the commission:

- (a) An attested written application on a department form;
- (b) ~~((Written))~~ An official ((evidence of a diploma from)) transcript demonstrating graduation and successful completion of an approved ((school) program of nursing; and
- (c) Any other official records specified by the commission.

(2) An applicant for a license to practice as an advanced registered nurse practitioner shall submit to the commission:

- (a) An attested written application on a department form;
- (b) ~~((Written))~~ An official ((evidence of)) transcript demonstrating graduation and successful completion of an advanced registered nurse practitioner ((training)) program meeting criteria established by the commission; and
- (c) Any other official records specified by the commission.

(3) An applicant for a license to practice as a licensed practical nurse shall submit to the commission:

- (a) An attested written application on a department form;
- (b) Written official evidence that the applicant is over the age of eighteen;
- (c) ~~((Written official evidence of a high school diploma or general education development certificate or diploma;~~

~~(d) Written))~~ An official ((evidence of completion of)) transcript demonstrating graduation and successful completion of an approved practical nursing program, or its equivalent; and

~~((e)))~~ (d) Any other official records specified by the commission.

(4) At the time of submission of the application, the applicant for a license to practice as a registered nurse, advanced registered nurse practitioner, or licensed practical nurse must not be in violation of chapter 18.130 RCW or this chapter.

(5) The commission shall establish by rule the criteria for evaluating the education of all applicants.

NEW SECTION. **Sec. 7.** A new section is added to chapter 18.79 RCW to read as follows:

A licensed practical nurse with an active license who has completed the coursework of a nontraditional registered nurse program approved by the commission can obtain the required clinical experience when: (1) The experience is obtained under the immediate supervision of a registered nurse who agrees to act as the preceptor with the understanding that the licensed practical nurse is practicing under the preceptor's registered nurse license. The preceptor must have an unrestricted license with at least two years of clinical practice in the same type of practice setting where the preceptorship will occur; and (2) the experience is obtained within six months of completion of the approved nontraditional program.

Sec. 8. RCW 18.83.050 and 1994 c 35 s 2 are each amended to read as follows:

(1) The board shall adopt such rules as it deems necessary to carry out its functions.

(2) The board shall examine the qualifications of applicants for licensing under this chapter, to determine which applicants are eligible for licensing under this chapter and shall forward to the secretary the names of applicants so eligible.

(3) The board shall administer examinations to qualified applicants on at least an annual basis. The board shall determine the subject matter and scope of the examination(~~s and shall require both written and oral examinations of each applicant~~), except as provided in RCW 18.83.170. The board may allow applicants to take the (~~written~~) examination upon the granting of their doctoral degree before completion of their internship for supervised experience.

(4) The board shall keep a complete record of its own proceedings, of the questions given in examinations, of the names and qualifications of all applicants, and the names and addresses of all licensed psychologists. The examination paper of such applicant shall be kept on file for a period of at least one year after examination.

(5) The board shall, by rule, adopt a code of ethics for psychologists which is designed to protect the public interest.

(6) The board may require that persons licensed under this chapter as psychologists obtain and maintain professional liability insurance in amounts determined by the board to be practicable and reasonably available.

Sec. 9. RCW 18.83.070 and 1995 c 198 s 11 are each amended to read as follows:

An applicant for a license as "psychologist" must submit proof to the board that:

(1) The applicant is of good moral character.

(2) The applicant holds a doctoral degree from a regionally accredited institution, obtained from an integrated program of graduate study in psychology as defined by rules of the board.

(3) The applicant has had no fewer than two years of supervised experience(~~(, at least one of which shall have been obtained subsequent to the granting of the doctoral degree)~~). The board shall adopt rules defining the

circumstances under which supervised experience shall qualify the candidate for licensure.

(4) The applicant has passed the ~~((written or oral))~~ examination or examinations ~~((, or both, as prescribed))~~ required by the board.

Any person holding a valid license to practice psychology in the state of Washington on June 7, 1984, shall be considered licensed under this chapter.

Sec. 10. RCW 18.83.072 and 1996 c 191 s 65 are each amended to read as follows:

(1) Examination of applicants shall be held in Olympia, Washington, or at such other place as designated by the secretary, at least annually at such times as the board may determine.

~~(2) ((Any applicant shall have the right to discuss with the board his or her performance on the examination.~~

~~(3))~~ Any applicant who fails to make a passing grade on the examination may be allowed to retake the examination. Any applicant who fails the examination a second time must obtain special permission from the board to take the examination again.

~~((4))~~ (3) The board may approve an examination prepared or administered by a private testing agency or association of licensing authorities.

Sec. 11. RCW 18.83.082 and 1996 c 191 s 67 are each amended to read as follows:

A person, not licensed in this state, who wishes to perform practices under the provisions of this chapter for a period not to exceed ninety days within a calendar year, must petition the board for a temporary permit to perform such practices. If the person is licensed or certified in another state deemed by the board to have standards equivalent to this chapter, or if the person is a member of a professional organization and holds a certificate deemed by the board to meet standards equivalent to this chapter, a permit may be issued. No fee shall be charged for such temporary permit.

Sec. 12. RCW 18.83.170 and 1996 c 191 s 70 are each amended to read as follows:

Upon compliance with administrative procedures, administrative requirements, and fees determined under RCW 43.70.250 and 43.70.280, the board may grant a license, without ~~((written))~~ oral examination, to any applicant who has not previously failed any examination held by the board of psychology of the state of Washington and furnishes evidence satisfactory to the board that the applicant:

(1) Holds a doctoral degree with primary emphasis on psychology from an accredited college or university; and

(2)(a) Is licensed or certified to practice psychology in another state or country in which the requirements for such licensing or certification are, in the judgment of the board, essentially equivalent to those required by this chapter and the rules and regulations of the board. Such individuals must have been licensed or certified in another state for a period of at least two years; or

~~((3))~~ (b) Is a diplomate in good standing of the American Board of Examiners in Professional Psychology; or

(c) Is a member of a professional organization and holds a certificate deemed by the board to meet standards equivalent to this chapter.

Sec. 13. RCW 18.89.050 and 1997 c 334 s 5 are each amended to read as follows:

(1) In addition to any other authority provided by law, the secretary may:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) Set all license, examination, and renewal fees in accordance with RCW 43.70.250;

(c) Establish forms and procedures necessary to administer this chapter;

(d) Issue a license to any applicant who has met the education, training, and examination requirements for licensure;

(e) Hire clerical, administrative, and investigative staff as needed to implement this chapter and hire individuals licensed under this chapter to serve as examiners for any practical examinations;

(f) Approve those schools from which graduation will be accepted as proof of an applicant's eligibility to take the licensure examination, specifically requiring that applicants must have completed ((programs)) an accredited respiratory program with two-year curriculum;

(g) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, examinations for applicants for licensure;

(h) Determine whether alternative methods of training are equivalent to formal education and establish forms, procedures, and criteria for evaluation of an applicant's alternative training to determine the applicant's eligibility to take the examination;

(i) Determine which states have legal credentialing requirements equivalent to those of this state and issue licenses to individuals legally credentialed in those states without examination;

(j) Define and approve any experience requirement for licensure; and

(k) Appoint members of the profession to serve in an ad hoc advisory capacity to the secretary in carrying out this chapter. The members will serve for designated times and provide advice on matters specifically identified and requested by the secretary. The members shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses under RCW 43.03.040 and 43.03.060.

(2) The provisions of chapter 18.130 RCW shall govern the issuance and denial of licenses, unlicensed practice, and the disciplining of persons licensed under this chapter. The secretary shall be the disciplining authority under this chapter.

Sec. 14. RCW 18.89.110 and 1997 c 334 s 9 are each amended to read as follows:

(1) The date and location of the examination shall be established by the secretary. Applicants who have been found by the secretary to meet the other requirements for licensure shall be scheduled for the next examination following the filing of the application. However, the applicant shall not be scheduled for any examination taking place sooner than sixty days after the application is filed.

(2) The secretary shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice. Such examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently, and shall

meet generally accepted standards of fairness and validity for licensure examinations.

(3) All examinations shall be conducted by the secretary, and all grading of the examinations shall be under fair and wholly impartial methods.

(4) Any applicant who fails to make the required grade in the first examination is entitled to take up to three subsequent examinations, upon compliance with administrative procedures, administrative requirements, and fees determined by the secretary under RCW 43.70.250 and 43.70.280 and such remedial education as is deemed necessary.

(5) Applicants who meet the educational criteria as established by the national board for respiratory care to sit for the national board for respiratory care's advanced practitioner exams, or who have been issued the registered respiratory therapist credential by the national board for respiratory care, shall be considered to have met the educational criteria of this chapter, provided the criteria and credential continue to be recognized by the secretary as equal to or greater than the licensure standards in Washington. Applicants must have verification submitted directly from the national board for respiratory care to the department.

(6) The secretary may approve an examination prepared and administered by a private testing agency or association of credentialing boards for use by an applicant in meeting the licensure requirement.

NEW SECTION. Sec. 15. Sections 13 and 14 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

Passed by the Senate March 10, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 263

[Substitute Senate Bill 6242]

LAND ACQUISITIONS, DISPOSAL

AN ACT Relating to establishing a statewide strategy for land acquisitions and disposal; and creating a new section.

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

NEW SECTION. Sec. 1. (1)(a) The legislature finds that the 1999 public and tribal lands inventory provides a base of information to begin the development of a statewide coordinated strategy for acquisition of lands for recreation and habitat preservation and enhancement. However, updated information is needed on the amount of recent acquisitions, how they were funded, how those acquisitions could be compatible with a coordinated strategy, and how they pursue the goals of single agencies.

(b) The legislature further finds that land acquisition decisions have long-term implications, often in perpetuity, and that some acquisitions occur outside the oversight of the legislature.

(c) The legislature intends to establish a statewide strategy for coordination of acquisition, exchange or disposal of state agency lands for recreation and habitat preservation and enhancement, and to clarify authority for an interagency planning and coordination of that strategy.

(2) The interagency committee for outdoor recreation shall submit a report to the appropriate policy and fiscal committees of the legislature and to the governor by June 30, 2005. The report shall include an inventory of recent habitat and recreational land acquisitions and a recommended statewide strategy for coordination of future acquisitions.

(a) The inventory shall include habitat and recreational land acquisitions and disposals since 1980 by state agencies. For the purpose of this inventory, "land acquisition" means fee simple acquisition or less than a fee simple interest if that interest is for more than fifty years. Land acquisitions by state agencies include those funded by state agencies but owned by local governments. The inventory shall:

(i) Include information about land acquisitions and disposals that involved land trading or swapping between public and private entities, and land acquisitions that were gifts;

(ii) Specify principal use of the acquired parcels and other data compatible with the 1999 inventory;

(iii) Specify the agency or local government acquiring or disposing of the property, the costs of the land acquisition or receipts from the disposal, the funding sources, and whether the land acquisition was funded under a legislative appropriation, an unanticipated receipt, and/or exchange of land parcels; and

(iv) Include any additional information local governments may provide to the inventory about habitat and recreational land acquisitions by land trusts, conservancies, port districts, public utility districts, and other parties that result in the property's change to a tax exempt status.

(b) The recommended statewide strategy for coordination of habitat and recreation acquisitions by state agencies, regardless of fund source, should be consistent with the priorities, policies and criteria of chapter 79A.15 RCW and, if not, identify what priorities, policies and goals should apply. The recommended statewide coordinated strategy should:

(i) Ensure that land acquisition and disposal decisions are based on a determination of need for recreational and habitat lands compared to existing public lands serving those purposes in various areas of the state;

(ii) Specify how to provide a central, interagency point of coordination to ensure that land acquisitions by state agencies, including land acquisitions funded through unanticipated receipts, are consistent with statewide priorities, policies and goals;

(iii) Examine alternative ways to compensate local governments by spreading statewide the impact of lost tax revenues from acquisitions of property for habitat and recreation;

(iv) Consider options for a no net gain policy in counties with large portions of existing public habitat and recreational land; and

(v) Consider what policies, priorities, and goals may apply to the statewide coordinated strategy. The report may consider population based goals for recreation needs, changes in use of public lands, provisions for scenic areas and green ways, wildlife corridors, forest buffers, designated critical areas, local,

state and federal wildlife protection plans, and multi-use functions of existing publicly owned lands.

Passed by the Senate February 12, 2004.

Passed by the House March 11, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 264

[Substitute Senate Bill 6118]

COUGAR CONTROL

AN ACT Relating to a pilot program for cougar control; and creating new sections.

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

NEW SECTION. Sec. 1. (1) The department of fish and wildlife, in cooperation and collaboration with the county legislative authorities of Ferry, Stevens, Pend Oreille, Chelan, and Okanogan counties, shall recommend rules to establish a three-year pilot program within select game management units of these counties, to pursue or kill cougars with the aid of dogs. A pursuit season and a kill season with the aid of dogs must be established through the fish and wildlife commission's rule-making process, utilizing local dangerous wildlife task teams comprised of the two collaborating authorities. The two collaborating authorities shall also develop a more effective and accurate dangerous wildlife reporting system to ensure a timely response. The pilot program's primary goals are to provide for public safety, to protect property, and to assess cougar populations.

(2) Any rules adopted by the fish and wildlife commission to establish a pilot project allowing for the pursuit or hunting of cougars with the aid of dogs under this section only must ensure that all pursuits or hunts are:

(a) Designed to protect public safety or property;

(b) Reflective of the most current cougar population data;

(c) Designed to generate data that is necessary for the department to satisfy the reporting requirements of section 3 of this act; and

(d) Consistent with any applicable recommendations emerging from research on cougar population dynamics in a multiprey environment conducted by Washington State University's department of natural resource sciences that was funded in whole or in part by the department of fish and wildlife.

***NEW SECTION. Sec. 2.** *A county legislative authority may request inclusion in the pilot project authorized by this act after taking the following actions:*

(1) Adopting a resolution that requests inclusion in the pilot project;

(2) Documenting the need to participate in the pilot program by identifying the number of cougar/human encounters and livestock and pet depredations; and

(3) Demonstrating that existing cougar depredation permits, public safety cougar hunts, or other existing wildlife management tools have not been sufficient to deal with cougar incidents in the county.

*Sec. 2 was vetoed. See message at end of chapter.

NEW SECTION. **Sec. 3.** After the culmination of the pilot project authorized by this section, the department of fish and wildlife must report to the fish and wildlife commission and the appropriate committees of the legislature:

(1) Recommendations for the development of a more effective and accurate dangerous wildlife reporting system, a summary of how the pilot project aided the collection of data useful in making future wildlife management decisions, and a recommendation as to whether the pilot project would serve as a model for effective cougar management into the future. The report required by this subsection must be completed in collaboration with the counties choosing to participate in the pilot program.

(2) Recommendations for a new and modern cougar management system that focuses on altering the behavior of wild cougars, and not solely on controlling cougar population levels. These recommendations must include at a minimum suggestions for wildlife management techniques aimed at modifying cougar behavior, the identification of nonlethal ways to minimize interactions between cougars and humans, and an analysis of opportunities for minimizing interactions between cougars and humans by controlling the abundance and location of cougar prey species.

Passed by the Senate March 8, 2004.

Passed by the House March 4, 2004.

Approved by the Governor March 31, 2004, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 31, 2004.

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

"I am returning herewith, without my approval as to section 2, Substitute Senate Bill No. 6118 entitled:

"AN ACT Relating to a pilot program for cougar control;"

This bill requires the Department of Fish and Wildlife (DFW) to recommend rules to establish a three-year pilot program to allow for the pursuit and killing of cougars with the aid of dogs. The pilot program is limited to the counties of Ferry, Stevens, Pend Oreille, Chelan, and Okanogan. The bill also requires that these rules ensure that the hunts are designed to protect public safety, reflect cougar population data, and are consistent with recommendations on cougar population dynamics currently under development at Washington State University.

Section 2 of the bill would have allowed other counties to participate in the pilot project. This section expands the pilot's purposes beyond the limited geographic scope of the underlying bill and undermines the thoughtful research purposes of the pilot approach. As stated in section 3 of the bill, DFW is to follow the pilot with "a recommendation as to whether the pilot project would serve as a model for effective cougar management into the future." The pilot should be allowed to run its course, and future cougar management decisions should be based on the results and recommendations of this pilot project. Should unique human-cougar interactions arise in counties not subject to the pilot, the Commission already has some authority to authorize the use of dogs to combat the problem.

For these reasons, I have vetoed section 2 of Substitute Senate Bill No. 6118.

With the exception of section 2, Substitute Senate Bill No. 6118 is approved."

CHAPTER 265

[Engrossed Senate Bill 6188]

NONPROFIT CORPORATIONS

AN ACT Relating to the Washington nonprofit corporation act; amending RCW 24.03.005, 24.03.007, 24.03.008, 24.03.017, 24.03.020, 24.03.045, 24.03.050, 24.03.055, 24.03.080, 24.03.085, 24.03.113, 24.03.120, 24.03.135, 24.03.155, 24.03.165, 24.03.170, 24.03.183, 24.03.195, 24.03.200, 24.03.207, 24.03.215, 24.03.220, 24.03.230, 24.03.235, 24.03.240, 24.03.330, 24.03.332, 24.03.340, 24.03.345, 24.03.365, 24.03.380, 24.03.410, 24.03.425, 24.03.430, 24.03.445, 24.03.450, 24.03.460, and 24.03.465; adding a new section to chapter 24.03 RCW; and adding a new section to chapter 24.06 RCW.

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

Sec. 1. RCW 24.03.005 and 2002 c 74 s 4 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a corporation not for profit subject to the provisions of this chapter, except a foreign corporation.

(2) "Foreign corporation" means a corporation not for profit organized under laws other than the laws of this state.

(3) "Not for profit corporation" or "nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors or officers.

(4) "Articles of incorporation" and "articles" mean the original articles of incorporation and all amendments thereto, and includes articles of merger and restated articles.

(5) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

(6) "Member" means an individual or entity having membership rights in a corporation in accordance with the provisions of its articles or incorporation or bylaws.

(7) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated in the articles or bylaws.

(8) "Insolvent" means inability of a corporation to pay debts as they become due in the usual course of its affairs.

(9) (~~"Duplicate originals" means two copies, original or otherwise, each with original signatures, or one original with original signatures and one copy thereof.~~) "Deliver" means: (a) Mailing; (b) transmission by facsimile equipment, for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or members; (c) electronic transmission, in accordance with the officer's, director's, or member's consent, for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or members under section 4 of this act; and (d) as prescribed by the secretary of state for purposes of submitting a record for filing with the secretary of state.

(10) "Conforms to law" as used in connection with duties of the secretary of state in reviewing (~~documents~~) records for filing under this chapter, means the secretary of state has determined that the (~~document~~) record complies as to form with the applicable requirements of this chapter.

(11) "Effective date" means, in connection with a ~~((document))~~ record filing made by the secretary of state, the date which is shown by affixing a "filed" stamp on the ~~((documents))~~ records. When a ~~((document))~~ record is received for filing by the secretary of state in a form which complies with the requirements of this chapter and which would entitle the ~~((document))~~ record to be filed immediately upon receipt, but the secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to the date on which the secretary of state first received the ~~((document))~~ record in acceptable form. An applicant may request a specific effective date no more than thirty days later than the receipt date which might otherwise be applied as the effective date.

(12) "Electronic transmission" means an electronic communication (a) not directly involving the physical transfer of a record in a tangible medium and (b) that may be retained, retrieved, and reviewed by the sender and the recipient thereof, and that may be directly reproduced in a tangible medium by a sender and recipient.

(13) "Electronically transmitted" means the initiation of an electronic transmission.

(14) "Execute," "executes," or "executed" means (a) signed, with respect to a written record or (b) electronically transmitted along with sufficient information to determine the sender's identity, with respect to an electronic transmission, or (c) filed in compliance with the standards for filing with the office of the secretary of state as prescribed by the secretary of state, with respect to a record to be filed with the secretary of state.

(15) "Executed by an officer of the corporation," or words of similar import, means that any ~~((document signed))~~ record executed by such person shall be and is ~~((signed))~~ executed by that person under penalties of perjury and in an official and authorized capacity on behalf of the corporation or person making the ~~((document))~~ record submission with the secretary of state and, for the purpose of ~~((documents))~~ records filed electronically with the secretary of state, in compliance with the rules adopted by the secretary of state for electronic filing.

~~((+3))~~ (16) "An officer of the corporation" means, in connection with the execution of ~~((documents))~~ records submitted for filing with the secretary of state, the president, a vice president, the secretary, or the treasurer of the corporation.

~~((+4))~~ (17) "Public benefit not for profit corporation" or "public benefit nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors, or officers and that holds a current tax exempt status as provided under 26 U.S.C. Sec. 501(c)(3) or is specifically exempted from the requirement to apply for its tax exempt status under 26 U.S.C. Sec. 501(c)(3).

(18) "Record" means information inscribed on a tangible medium or contained in an electronic transmission.

(19) "Tangible medium" means a writing, copy of a writing, facsimile, or a physical reproduction, each on paper or on other tangible material.

(20) "Writing" does not include an electronic transmission.

(21) "Written" means embodied in a tangible medium.

Sec. 2. RCW 24.03.007 and 2002 c 74 s 5 are each amended to read as follows:

The secretary of state may adopt rules to facilitate electronic filing. The rules will detail the circumstances under which the electronic filing of ~~((documents))~~ records will be permitted, how the ~~((documents))~~ records will be filed, and how the secretary of state will return filed ~~((documents))~~ records. The rules may also impose additional requirements related to implementation of electronic filing processes, including but not limited to file formats, signature technologies, delivery, and the types of entities(~~(-records,))~~ or ~~((documents))~~ records permitted.

Sec. 3. RCW 24.03.008 and 2002 c 74 s 6 are each amended to read as follows:

A ~~((document))~~ record submitted to the secretary of state for filing under this chapter must be accompanied by an exact or conformed copy of the ~~((document))~~ record, unless the secretary of state provides by rule that an exact or conformed copy is not required.

NEW SECTION. Sec. 4. A new section is added to chapter 24.03 RCW to read as follows:

(1) A notice to be provided by electronic transmission must be electronically transmitted.

(2) Notice to members and directors in an electronic transmission that otherwise complies with the requirements of this chapter is effective only with respect to members and directors who have consented, in the form of a record, to receive electronically transmitted notices under this chapter.

(a) Notice to members and directors includes material that this chapter requires or permits to accompany the notice.

(b) A member or director who provides consent, in the form of a record, to receipt of electronically transmitted notices shall designate in the consent the message format accessible to the recipient, and the address, location, or system to which these notices may be electronically transmitted.

(c) A member or director who has consented to receipt of electronically transmitted notices may revoke the consent by delivering a revocation to the corporation in the form of a record.

(d) The consent of any member or director is revoked if the corporation is unable to electronically transmit two consecutive notices given by the corporation in accordance with the consent, and this inability becomes known to the secretary of the corporation or other person responsible for giving the notice. The inadvertent failure by the corporation to treat this inability as a revocation does not invalidate any meeting or other action.

(3) Notice to members or directors who have consented to receipt of electronically transmitted notices may be provided notice by posting the notice on an electronic network and delivering to the member or director a separate record of the posting, together with comprehensible instructions regarding how to obtain access to this posting on the electronic network.

(4) Notice provided in an electronic transmission is effective when it: (a) Is electronically transmitted to an address, location, or system designated by the recipient for that purpose, and is made pursuant to the consent provided by the recipient; or (b) has been posted on an electronic network and a separate record of the posting has been delivered to the recipient together with comprehensible

instructions regarding how to obtain access to the posting on the electronic network.

Sec. 5. RCW 24.03.017 and 1982 c 35 s 73 are each amended to read as follows:

Any corporation organized under any act of the state of Washington for any one or more of the purposes for which a corporation may be organized under this chapter and for no purpose other than those permitted by this chapter, and to which this chapter does not otherwise apply, may elect to have this chapter and the provisions thereof apply to such corporation. Such corporation may so elect by having a resolution to do so adopted by the governing body of such corporation and by delivering to the secretary of state a statement of election in accordance with this section. Such statement of election shall be executed (~~in duplicate~~) by the corporation by an officer of the corporation, and shall set forth:

(1) The name of the corporation;

(2) The act which created the corporation or pursuant to which it was organized;

(3) That the governing body of the corporation has elected to have this chapter and the provisions thereof apply to ~~((said))~~ the corporation.

~~((Duplicate originals of such))~~ The statement of election shall be delivered to the secretary of state. If the secretary of state finds that the statement of election conforms to law, the secretary of state shall, when fees in the same amount as required by this chapter for filing articles of incorporation have been paid, endorse on ~~((each of such duplicates))~~ the statement the word "filed" and the effective date of the filing thereof, shall file ~~((one of such duplicate originals))~~ the statement, and shall issue a certificate of elective coverage to which ~~((the other duplicate original))~~ an exact or conformed copy of the statement shall be affixed.

The certificate of elective coverage together with the ~~((duplicate original))~~ exact or conformed copy of the statement affixed thereto by the secretary of state shall be returned to the corporation or its representative. Upon the filing of the statement of elective coverage, the provisions of this chapter shall apply to ~~((said))~~ the corporation which thereafter shall be subject to and shall have the benefits of this chapter and the provisions thereof as they exist on the date of filing such statement of election and as they may be amended from time to time thereafter, including, without limiting the generality of the foregoing, the power to amend its charter or articles of incorporation, whether or not created by special act of the legislature, delete provisions therefrom and add provisions thereto in any manner and to any extent it may choose to do from time to time so long as its amended articles shall not be inconsistent with the provisions of this chapter.

Sec. 6. RCW 24.03.020 and 1986 c 240 s 3 are each amended to read as follows:

One or more persons of the age of eighteen years or more, or a domestic or foreign, profit or nonprofit, corporation, may act as incorporator or incorporators of a corporation by ~~((signing))~~ executing and delivering to the secretary of state articles of incorporation for such corporation.

Sec. 7. RCW 24.03.045 and 1998 c 102 s 3 are each amended to read as follows:

The corporate name:

(1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(2)(a) Except as provided in (b) and (c) of this subsection, must be distinguishable upon the records of the secretary of state from:

(i) The corporate name or reserved name of a corporation or domestic corporation organized or authorized to transact business under this chapter;

(ii) A corporate name reserved or registered under chapter 23B.04 RCW;

(iii) The fictitious name adopted under RCW 23B.15.060 by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(iv) The name or reserved name of a mutual corporation or miscellaneous corporation incorporated or authorized to do business under chapter 24.06 RCW;

(v) The name or reserved name of a foreign or domestic limited partnership formed or registered under chapter 25.10 RCW;

(vi) The name or reserved name of a limited liability company organized or registered under chapter 25.15 RCW; and

(vii) The name or reserved name of a limited liability partnership registered under chapter 25.04 RCW.

(b) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the names described in (a) of this subsection. The secretary of state shall authorize use of the name applied for if:

(i) The other corporation, company, holder, limited liability partnership, or limited partnership consents to the use in ~~((writing))~~ the form of a record and files with the secretary of state ~~((documents))~~ records necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(ii) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(c) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation, limited liability company, limited partnership, or limited liability partnership, that is used in this state if the other entity is formed or authorized to transact business in this state, and the proposed user corporation:

(i) Has merged with the other corporation, limited liability company, or limited partnership; or

(ii) Has been formed by reorganization of the other corporation.

(3) Shall be transliterated into letters of the English alphabet, if it is not in English.

(4) Shall not include or end with "incorporated," "company," "corporation," "partnership," "limited partnership," or "Ltd.," or any abbreviation thereof, but may use "club," "league," "association," "services," "committee," "fund,"

"society," "foundation," ".", a nonprofit corporation," or any name of like import.

(5) May only include the term "public benefit" or names of like import if the corporation has been designated as a public benefit nonprofit corporation by the secretary in accordance with this chapter.

(6) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation in any of the following designations for the same name: "Corporation," "incorporated," "company," "limited," "partnership," "limited partnership," "limited liability company," or "limited liability partnership," or the abbreviations "corp.," "inc.," "co.," "Ltd.," "LP," "L.P.," "LLP," "L.L.P.," "LLC," or "L.L.C.";

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

(7) This title does not control the use of assumed business names or "trade names."

Sec. 8. RCW 24.03.050 and 1986 c 240 s 9 are each amended to read as follows:

Each corporation shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its principal office. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made.

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, having an office identical with such registered office, or a domestic limited liability company whose business office is identical with the registered office, or a foreign limited liability company authorized to conduct affairs in this state whose business address is identical with the registered office. A registered agent shall not be appointed without having given prior ~~((written))~~ consent to the appointment, in the form of a record. The ~~((written))~~ consent shall be filed with the secretary of state in such form as the secretary may prescribe. The ~~((written))~~ consent shall be filed with or as a part of the ~~((document))~~ record first appointing a registered agent. In the event any individual ~~((or)),~~ corporation, or limited liability company has been appointed agent without consent, that person ~~((or)),~~ corporation, or limited liability company may file a notarized statement attesting to that fact, and the name shall ~~((forthwith))~~ immediately be removed from the records of the secretary of state.

No Washington corporation or foreign corporation authorized to conduct affairs in this state may be permitted to maintain any action in any court in this state until the corporation complies with the requirements of this section.

Sec. 9. RCW 24.03.055 and 1993 c 356 s 3 are each amended to read as follows:

A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state in the form prescribed by the secretary of state a statement setting forth:

- (1) The name of the corporation.
- (2) If the current registered office is to be changed, the street address to which the registered office is to be changed.
- (3) If the current registered agent is to be changed, the name of the new registered agent.
- (4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

Such statement shall be executed by the corporation by an officer of the corporation, and delivered to the secretary of state, together with a ~~((written))~~ consent, in the form of a record, of the registered agent to ~~((his or its))~~ the appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, the secretary of state shall endorse thereon the word "Filed," and the month, day, and year of the filing thereof, and file the statement. The change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective upon filing unless a later date is specified.

Any registered agent of a corporation may resign as such agent upon filing a ~~((written))~~ notice thereof, ~~((executed in duplicate))~~ in the form of a record, with the secretary of state, who shall ~~((forthwith mail a))~~ immediately deliver an exact or conformed copy thereof to the corporation in care of an officer, who is not the resigning registered agent, at the address of such officer as shown by the most recent annual report of the corporation. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

If a registered agent changes the agent's business address to another place within the state, the agent may change such address and the address of the registered office of any corporation of which the agent is a registered agent, by filing a statement as required by this section except that it need be ~~((signed))~~ executed only by the registered agent, it need not be responsive to subsection (3) of this section, and it must recite that a copy of the statement has been ~~((mailed))~~ delivered to the secretary of the corporation.

Sec. 10. RCW 24.03.080 and 1969 ex.s. c 115 s 1 are each amended to read as follows:

~~((Written or printed))~~ (1) Notice, in the form of a record, in a tangible medium, or in an electronic transmission, stating the place, day, and hour of the annual meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than fifty days before the date of the meeting, ~~((either personally or by mail,))~~ by or at the direction of the president, or the secretary, or the officers or persons calling the meeting, to each member entitled to vote at such meeting. Notice of regular

meetings other than annual shall be made by providing each member with the adopted schedule of regular meetings for the ensuing year at any time after the annual meeting and ten days prior to the next succeeding regular meeting and at any time when requested by a member or by such other notice as may be prescribed by the bylaws.

(2) If notice is provided in a tangible medium, it may be transmitted by: Mail, private carrier, or personal delivery; telegraph or teletype; or telephone, wire, or wireless equipment that transmits a facsimile of the notice. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his or her address as it appears on the records of the corporation, with postage thereon prepaid. Other forms of notice in a tangible medium described in this subsection are effective when received.

(3) If notice is provided in an electronic transmission, it must satisfy the requirements of section 4 of this act.

Sec. 11. RCW 24.03.085 and 1969 ex.s. c 115 s 2 are each amended to read as follows:

(1) The right of the members, or any class or classes of members, to vote may be limited, enlarged or denied to the extent specified in the articles of incorporation or the bylaws. Unless so limited, enlarged or denied, each member, regardless of class, shall be entitled to one vote on each matter submitted to a vote of members.

(2) A member may vote in person or, if so authorized by the articles of incorporation or the bylaws, may vote by mail, by electronic transmission, or by proxy in the form of a record executed (~~(in writing)~~) by the member or (~~by his~~) a duly authorized attorney-in-fact. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

~~(Where)~~ (3) If specifically permitted by the articles of incorporation or bylaws, whenever proposals or directors or officers are to be elected by members, the ((bylaws may provide that such elections may be conducted)) vote may be taken by mail or by electronic transmission if the name of each candidate and the text of each proposal to be voted upon are set forth in a record accompanying or contained in the notice of meeting. If the bylaws provide, an election may be conducted by electronic transmission if the corporation has designated an address, location, or system to which the ballot may be electronically transmitted and the ballot is electronically transmitted to the designated address, location, or system, in an executed electronically transmitted record. Members voting by mail or electronic transmission are present for all purposes of quorum, count of votes, and percentages of total voting power present.

(4) The articles of incorporation or the bylaws may provide that in all elections for directors every member entitled to vote shall have the right to cumulate his vote and to give one candidate a number of votes equal to his vote multiplied by the number of directors to be elected, or by distributing such votes on the same principle among any number of such candidates.

Sec. 12. RCW 24.03.113 and 1986 c 240 s 19 are each amended to read as follows:

A director of a corporation who is present at a meeting of its board of directors at which action on any corporate matter is taken shall be presumed to

have assented to the action taken unless the director's dissent or abstention shall be entered in the minutes of the meeting or unless the director shall ~~((file))~~ deliver his or her ~~((written))~~ dissent or abstention to such action ~~((with))~~ to the person acting as the secretary of the meeting before the adjournment thereof, or shall ~~((forward))~~ deliver such dissent or abstention ~~((by registered mail))~~ to the secretary of the corporation immediately after the adjournment of the meeting which dissent or abstention must be in the form of a record. Such right to dissent or abstain shall not apply to a director who voted in favor of such action.

Sec. 13. RCW 24.03.120 and 1986 c 240 s 21 are each amended to read as follows:

Meetings of the board of directors, regular or special, may be held either within or without this state.

Regular meetings of the board of directors or of any committee designated by the board of directors may be held with or without notice as prescribed in the bylaws. Special meeting of the board of directors or any committee designated by the board of directors shall be held upon such notice as is prescribed in the bylaws. Attendance of a director or a committee member at a meeting shall constitute a waiver of notice of such meeting, except where a director or a committee member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors or any committee designated by the board of directors need be specified in the notice or waiver of notice of such meeting unless required by the bylaws. If notice of regular or special meetings is provided by electronic transmission, it must satisfy the requirements of section 4 of this act.

Except as may be otherwise restricted by the articles of incorporation or bylaws, members of the board of directors or any committee designated by the board of directors may participate in a meeting of such board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at a meeting.

Sec. 14. RCW 24.03.135 and 1986 c 240 s 24 are each amended to read as follows:

Each corporation shall keep at its registered office, its principal office in this state, or at its secretary's office if in this state, the following documents in the form of a record:

- (1) Current articles and bylaws;
- (2) A ~~((record))~~ list of members, including names, addresses, and classes of membership, if any;
- (3) Correct and adequate ~~((records))~~ statements of accounts and finances;
- (4) A ~~((record))~~ list of officers' and directors' names and addresses;
- (5) Minutes of the proceedings of the members, if any, the board, and any minutes which may be maintained by committees of the board. ~~((Records may be written, or electronic if capable of being converted to writing.))~~

The corporate records shall be open at any reasonable time to inspection by any member of more than three months standing or a representative of more than five percent of the membership.

Cost of inspecting or copying shall be borne by such member except for costs for copies of articles or bylaws. Any such member must have a purpose for inspection reasonably related to membership interests. Use or sale of members' lists by such member if obtained by inspection is prohibited.

The superior court of the corporation's or such member's residence may order inspection and may appoint independent inspectors. Such member shall pay inspection costs unless the court orders otherwise.

Sec. 15. RCW 24.03.155 and 1986 c 240 s 26 are each amended to read as follows:

After the issuance of the certificate of incorporation an organization meeting of the board of directors named in the articles of incorporation shall be held, either within or without this state, at the call of a majority of the directors named in the articles of incorporation, for the purpose of adopting bylaws, electing officers and the transaction of such other business as may come before the meeting. The directors calling the meeting shall give at least three days' notice thereof by mail, facsimile transmission, or electronic transmission to each director so named, which notice shall be in the form of a record and shall state the time and place of the meeting. If notice is provided by electronic transmission, it must satisfy the requirements of section 4 of this act. Any action permitted to be taken at the organization meeting of the directors may be taken without a meeting if each director (~~signs an instrument~~) executes a record stating the action so taken.

Sec. 16. RCW 24.03.165 and 1986 c 240 s 27 are each amended to read as follows:

Amendments to the articles of incorporation shall be made in the following manner:

(1) Where there are members having voting rights, with regard to the question, the board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. (~~Written or printed~~) Notice in the form of a record setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of members. The proposed amendment shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(2) Where there are no members, or no members having voting rights, with regard to the question, an amendment shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

Any number of amendments may be submitted and voted upon at any one meeting.

Sec. 17. RCW 24.03.170 and 1982 c 35 s 85 are each amended to read as follows:

The articles of amendment shall be executed (~~(in duplicate)~~) by the corporation by an officer of the corporation, and shall set forth:

- (1) The name of the corporation.
- (2) The amendment so adopted.

(3) Where there are members having voting rights, (a) a statement setting forth the date of the meeting of members at which the amendment was adopted, that a quorum was present at such meeting, and that such amendment received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or (b) a statement that such amendment was adopted by a consent in (~~(writing signed)~~) the form of a record executed by all members entitled to vote with respect thereto.

(4) Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the amendment was adopted, and a statement of the fact that such amendment received the vote of a majority of the directors in office.

Sec. 18. RCW 24.03.183 and 2002 c 74 s 9 are each amended to read as follows:

A domestic corporation may at any time restate its articles of incorporation by a resolution adopted by the board of directors. A corporation may amend and restate in one resolution, but may not present the amendments and restatement for filing by the secretary in a single (~~(document)~~) record. Separate articles of amendment, under RCW 24.03.165 and articles of restatement, under this section, must be presented notwithstanding the corporation's adoption of a single resolution of amendment and restatement.

Upon the adoption of the resolution, restated articles of incorporation shall be executed (~~(in duplicate)~~) by the corporation by one of its officers. The restated articles shall set forth all of the operative provisions of the articles of incorporation together with a statement that the restated articles of incorporation correctly set forth without change the provisions of the articles of incorporation as amended and that the restated articles of incorporation supersede the original articles of incorporation and all amendments thereto.

The restated articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the restated articles of incorporation conform to law, the secretary of state shall, when all fees required by this title have been paid:

- (1) Endorse on the articles the word "Filed" and the date of the filing;
- (2) File the restated articles.

An exact or conformed copy of the restated articles of incorporation bearing the endorsement affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

Upon the filing of the restated articles of incorporation by the secretary of state, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments thereto.

Sec. 19. RCW 24.03.195 and 1986 c 240 s 32 are each amended to read as follows:

A plan of merger or consolidation shall be adopted in the following manner:

(1) Where the members of any merging or consolidating corporation have voting rights with regard to the question, the board of directors of such

corporation shall adopt a resolution approving the proposed plan and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. (~~Written or printed~~) Notice in the form of a record setting forth the proposed plan or a summary thereof shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of members. The proposed plan shall be adopted upon receiving at least two-thirds of the votes which members present at each such meeting or represented by proxy are entitled to cast.

(2) Where any merging or consolidating corporation has no members, or no members having voting rights with regard to the question, a plan of merger or consolidation shall be adopted at a meeting of the board of directors of such corporation upon receiving the vote of a majority of the directors in office.

After such approval, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

Sec. 20. RCW 24.03.200 and 2002 c 74 s 10 are each amended to read as follows:

(1) Upon such approval, articles of merger or articles of consolidation shall be executed by each corporation by an officer of each corporation, and shall set forth:

(a) The plan of merger or the plan of consolidation;

(b) Where the members of any merging or consolidating corporation have voting rights, then as to each such corporation (i) a statement setting forth the date of the meeting of members at which the plan was adopted, that a quorum was present at such meeting, and that such plan received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or (ii) a statement that such amendment was adopted by a consent in (~~writing signed~~) the form of a record executed by all members entitled to vote with respect thereto;

(c) Where any merging or consolidating corporation has no members, or no members having voting rights, then as to each such corporation a statement of such fact, the date of the meeting of the board of directors at which the plan was adopted and a statement of the fact that such plan received the vote of a majority of the directors in office.

(2) The articles of merger or articles of consolidation shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, the secretary of state shall, when all fees have been paid as in this chapter prescribed:

(a) Endorse on the articles of merger or consolidation the word "Filed," and the date of the filing;

(b) File the articles of merger or consolidation.

An exact or conformed copy of the articles of merger or articles of consolidation bearing the filing endorsement affixed thereto by the secretary of state, shall be returned to the surviving or new corporation, as the case may be, or its representative.

Sec. 21. RCW 24.03.207 and 1986 c 240 s 35 are each amended to read as follows:

One or more foreign corporations and one or more domestic corporations may be merged or consolidated in the following manner, if such merger or consolidation is permitted by the laws of the state under which each such foreign corporation is organized:

(1) Each domestic corporation shall comply with the provisions of this title with respect to the merger or consolidation as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

(2) If the surviving or new corporation in a merger or consolidation is to be governed by the laws of any state other than this state, it shall comply with the provisions of this title with respect to foreign corporations if it is to transact business in this state, and in every case it shall file with the secretary of state of this state:

(a) An agreement that it may be served with process in this state in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to the merger or consolidation and in any proceeding for the enforcement of the rights, if any, of a member of any such domestic corporation against the surviving or new corporation; and

(b) An irrevocable appointment of the secretary of state of this state as its agent to accept service of process in any such proceeding.

The effect of the merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this state. If the surviving or new corporation is to be governed by the laws of any state other than this state, the effect of the merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except as the laws of the other state provide otherwise.

(3) At any time prior to the effective date of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provision therefor, if any, set forth in the plan of merger or consolidation. In the event the merger or consolidation is abandoned, the parties thereto shall execute a notice of abandonment in triplicate (~~signed~~) executed by an officer for each corporation (~~signing~~) executing the notice, which must be in the form of a record. If the secretary of state finds the notice conforms to law, the secretary of state shall:

(a) Endorse on each of the originals the word "Filed" and the date of the filing;

(b) File one of the triplicate originals in the secretary of state's office; and

(c) Issue the other triplicate originals to the respective parties or their representatives.

Sec. 22. RCW 24.03.215 and 1986 c 240 s 36 are each amended to read as follows:

A sale, lease, exchange, or other disposition of all, or substantially all, the property and assets of a corporation, if not in the ordinary course of business, may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including

shares of any corporation for profit, domestic or foreign, as may be authorized in the following manner:

(1) Where there are members having voting rights with regard to the question, the board of directors shall adopt a resolution recommending such sale, lease, exchange, or other disposition and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. (~~Written or printed~~) Notice in the form of a record stating that the purpose, or one of the purposes, of such meeting is to consider the sale, lease, exchange, or other disposition of all, or substantially all, the property and assets of the corporation shall be given to each member entitled to vote at such meeting, within the time and in the manner provided by this chapter for the giving of notice of meetings of members. At such meeting the members may authorize such sale, lease, exchange, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. Such authorization shall require at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast. After such authorization by a vote of members, the board of directors, nevertheless, in its discretion, may abandon such sale, lease, exchange, or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by members.

(2) Where there are no members, or no members having voting rights with regard to the question, a sale, lease, exchange, or other disposition of all, or substantially all, the property and assets of a corporation shall be authorized upon receiving the vote of a majority of the directors in office.

Sec. 23. RCW 24.03.220 and 1986 c 240 s 38 are each amended to read as follows:

A corporation may dissolve and wind up its affairs in the following manner:

(1) Where there are members having voting rights with regard to the question, the board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of members having such voting rights, which may be either an annual or a special meeting. (~~Written or printed~~) Notice in the form of a record stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this chapter for the giving of notice of meetings of members. A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(2) Where there are no members, or no members having voting rights with regard to the question, the dissolution of the corporation shall be authorized at a meeting of the board of directors upon the adoption of a resolution to dissolve by the vote of a majority of the directors in office.

Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members having voting rights, the corporation shall cease to conduct its affairs except in so far as may be necessary for the winding up thereof, shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the corporation, to the

attorney general with respect to assets subject to RCW 24.03.225(3), and to the department of revenue, and shall proceed to collect its assets and apply and distribute them as provided in this chapter.

Sec. 24. RCW 24.03.230 and 1969 ex.s. c 115 s 3 are each amended to read as follows:

A plan providing for the distribution of assets, not inconsistent with the provisions of this chapter, may be adopted by a corporation in the process of dissolution and shall be adopted by a corporation for the purpose of authorizing any transfer or conveyance of assets for which this chapter requires a plan of distribution, in the following manner:

(1) Where there are members having voting rights, the board of directors shall adopt a resolution recommending a plan of distribution and directing the submission thereof to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. ~~((Written or printed))~~ Notice in the form of a record setting forth the proposed plan of distribution or a summary thereof shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this chapter for the giving of notice of meetings of members. Such plan of distribution shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(2) Where there are no members, or no members having voting rights, a plan of distribution shall be adopted at a meeting of the board of directors upon receiving a vote of a majority of the directors in office.

If the plan of distribution includes assets received and held by the corporation subject to limitations described in subsection (3) of RCW 24.03.225, notice of the adoption of the proposed plan shall be submitted to the attorney general by registered or certified mail directed to him at his office in Olympia, at least twenty days prior to the meeting at which the proposed plan is to be adopted. No plan for the distribution of such assets may be adopted without the approval of the attorney general, or the approval of a court of competent jurisdiction in a proceeding to which the attorney general is made a party. In the event that an objection is not filed within twenty days after the date of mailing, his approval shall be deemed to have been given.

Sec. 25. RCW 24.03.235 and 1967 c 235 s 48 are each amended to read as follows:

A corporation may, at any time prior to the issuance of a certificate of dissolution by the secretary of state, revoke the action theretofore taken to dissolve the corporation, in the following manner:

(1) Where there are members having voting rights, the board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of such revocation be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. ~~((Written or printed))~~ Notice in the form of a record stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this chapter for the giving of notice of meetings of members. A resolution to revoke the voluntary dissolution proceedings shall be

adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(2) Where there are no members, or no members having voting rights, a resolution to revoke the voluntary dissolution proceedings shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members having voting rights, the corporation may thereupon again conduct its affairs.

Sec. 26. RCW 24.03.240 and 1993 c 356 s 4 are each amended to read as follows:

If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities and obligations of the corporation shall have been paid and discharged, or adequate provision shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed or distributed in accordance with the provisions of this chapter, articles of dissolution shall be executed (~~in duplicate~~) by the corporation by an officer of the corporation and shall set forth:

(1) The name of the corporation.

(2) Where there are members having voting rights, (a) a statement setting forth the date of the meeting of members at which the resolution to dissolve was adopted, that a quorum was present at such meeting, and that such resolution received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or (b) a statement that such resolution was adopted by a consent in (~~writing signed~~) the form of a record executed by all members entitled to vote with respect thereto.

(3) Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the resolution to dissolve was adopted and a statement of the fact that such resolution received the vote of a majority of the directors in office.

(4) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.

(5) A copy of a revenue clearance certificate issued pursuant to chapter 82.32 RCW.

(6) That all the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provisions of this chapter.

(7) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit.

Sec. 27. RCW 24.03.330 and 2002 c 74 s 13 are each amended to read as follows:

The application of the corporation for a certificate of authority shall be delivered to the secretary of state.

If the secretary of state finds that such application conforms to law, the secretary of state shall, when all fees have been paid as in this chapter prescribed:

(1) Endorse on each of (~~such documents~~) the records the word "Filed," and the date of the filing.

(2) File the application and the copy of the articles of incorporation and amendments thereto.

(3) Issue a certificate of authority to conduct affairs in this state.

An exact or conformed copy of the application bearing the filing endorsement affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

Sec. 28. RCW 24.03.332 and 1998 c 23 s 12 are each amended to read as follows:

For those corporations that have a certificate of authority, are applying for, or intend to apply for a certificate of authority from the insurance commissioner as an insurance company under chapter 48.05 RCW, whenever under this chapter corporate (~~documents~~) records are required to be filed with the secretary of state, the (~~documents~~) records shall be filed with the insurance commissioner rather than the secretary of state.

Sec. 29. RCW 24.03.340 and 1982 c 35 s 101 are each amended to read as follows:

Each foreign corporation authorized to conduct affairs in this state shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its principal office. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made.

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, having an office identical with such registered office or a domestic limited liability company whose business office is identical with the registered office or a foreign limited liability company authorized to conduct affairs in this state whose business address is identical with the registered office. A registered agent shall not be appointed without having given prior (~~written~~) consent in the form of a record to the appointment. The (~~written~~) consent shall be filed with the secretary of state in such form as the secretary may prescribe. The (~~written~~) consent shall be filed with or as a part of the (~~document~~) record first appointing a registered agent. In the event any individual (~~or~~), corporation, or limited liability company has been appointed agent without consent, that person (~~or~~), corporation, or limited liability company may file a notarized statement attesting to that fact, and the name shall (~~forthwith~~) immediately be removed from the records of the secretary of state.

No foreign corporation authorized to transact business in this state may be permitted to maintain any action in any court in this state until the corporation complies with the requirements of this section.

Sec. 30. RCW 24.03.345 and 1993 c 356 s 6 are each amended to read as follows:

A foreign corporation authorized to conduct affairs in this state may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state in a form approved by the secretary of state a statement setting forth:

- (1) The name of the corporation.
- (2) If the current registered office is to be changed, the street address to which the registered office is to be changed.
- (3) If the current registered agent is to be changed, the name of the new registered agent.
- (4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

Such statement shall be executed by the corporation by an officer of the corporation, and delivered to the secretary of state, together with a ~~((written))~~ consent, in the form of a record, of the registered agent to ~~((his or its))~~ the appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, the secretary of state shall endorse thereon the word "Filed," and the month, day, and year of the filing thereof, and file the statement. The change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective upon filing unless a later date is specified.

Any registered agent in this state appointed by a foreign corporation may resign as such agent upon filing a ~~((written))~~ notice thereof, in the form of a record, executed in duplicate, with the secretary of state who shall ~~((forthwith mail))~~ immediately deliver a copy thereof to the secretary of the foreign corporation at its principal office as shown by its most recent annual report. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

If a registered agent changes his or her business address to another place within the state, the registered agent may change such address and the address of the registered office of any corporation of which the registered agent is a registered agent by filing a statement as required by this section, except that it need be ~~((signed))~~ executed only by the registered agent, it need not be responsive to subsection (3) of this section, and it must recite that a copy of the statement has been ~~((mailed))~~ delivered to the corporation.

Sec. 31. RCW 24.03.365 and 1967 c 235 s 74 are each amended to read as follows:

A foreign corporation authorized to conduct affairs in this state shall procure an amended certificate of authority in the event it changes its corporate name, or desires to pursue in this state other or additional purposes than those set forth in its prior application for a certificate of authority, by making application therefor to the secretary of state.

The requirements in respect to the form and contents of such application, the manner of its execution, the filing of ~~((duplicate originals thereof))~~ the

application with the secretary of state, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

Sec. 32. RCW 24.03.380 and 1986 c 240 s 50 are each amended to read as follows:

(1) The certificate of authority of a foreign corporation to conduct affairs in this state shall be revoked by the secretary of state upon the conditions prescribed in this section when:

(a) The corporation has failed to file its annual report within the time required by this chapter, or has failed to pay any fees or penalties prescribed by this chapter when they have become due and payable; or

(b) The corporation has failed for thirty days to appoint and maintain a registered agent in this state as required by this chapter; or

(c) The corporation has failed, for thirty days after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change as required by this chapter; or

(d) The corporation has continued to exceed or abuse the authority conferred upon it by this chapter; or

(e) A misrepresentation has been made of any material matter in any application, report, affidavit, or other (~~document~~) record submitted by such corporation pursuant to this chapter.

(2) Prior to revoking a certificate of authority under subsection (1) of this section, the secretary of state shall give the corporation written notice of the corporation's delinquency or omission by first class mail, postage prepaid, addressed to the corporation's registered agent. If, according to the records of the secretary of state, the corporation does not have a registered agent, the notice may be given by mail addressed to the corporation at its last known address or at the address of any officer or director of the corporation, as shown by the records of the secretary of state. Notice is deemed to have been given five days after the date deposited in the United States mail, correctly addressed, and with correct postage affixed. The notice shall inform the corporation that its certificate of authority shall be revoked at the expiration of sixty days following the date the notice had been deemed to have been given, unless it corrects the delinquency or omission within the sixty-day period.

(3) Any notice provided by the secretary of state under this section shall be designed to clearly identify and warn the recipient of the contents thereof. A delinquency notice shall provide a succinct and readable description of the delinquency or omission, the date on which dissolution will occur, and the action necessary to cure the delinquency or omission prior to dissolution.

(4) The attorney general may take such action regarding revocation of a certificate of authority as is provided by RCW 24.03.250 for the dissolution of a domestic corporation. The procedures of RCW 24.03.250 shall apply to any action under this section. The clerk of any superior court entering a decree of revocation of a certificate of authority shall file a certified copy, without cost or filing fee, with the office of the secretary of state.

Sec. 33. RCW 24.03.410 and 1993 c 269 s 6 are each amended to read as follows:

The secretary of state shall establish fees by rule and collect:

(1) For furnishing a certified copy of any charter document or any other ((document)) record, instrument, or paper relating to a corporation.

(2) For furnishing a certificate, under seal, attesting to the status of a corporation or any other certificate.

(3) For furnishing copies of any ((document)) record, instrument or paper relating to a corporation.

(4) At the time of any service of process on him or her as registered agent of a corporation an amount that may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

Sec. 34. RCW 24.03.425 and 1967 c 235 s 86 are each amended to read as follows:

Each director and officer of a corporation, domestic or foreign, who fails or refuses within the time prescribed by this chapter to answer truthfully and fully interrogatories propounded to him or her by the secretary of state in accordance with the provisions of this chapter, or who signs any articles, statement, report, application or other ((document)) record filed with the secretary of state which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a misdemeanor, and upon conviction thereof may be fined in any amount not exceeding five hundred dollars.

Sec. 35. RCW 24.03.430 and 1982 c 35 s 112 are each amended to read as follows:

The secretary of state may propound to any corporation, domestic or foreign, subject to the provisions of this chapter, and to any officer or director thereof, such interrogatories as may be reasonably necessary and proper to enable the secretary of state to ascertain whether such corporation has complied with all the provisions of this chapter applicable to such corporation. Such interrogatories shall be answered within thirty days after the mailing thereof, or within such additional time as shall be fixed by the secretary of state, and the answers thereto shall be full and complete and shall be made in writing and under oath. If such interrogatories be directed to an individual they shall be answered by ((him)) that individual, and if directed to a corporation they shall be answered by the president, vice president, secretary or assistant secretary thereof. The secretary of state need not file any ((document)) record to which such interrogatories relate until such interrogatories be answered as herein provided, and not then if the answers thereto disclose that such ((document)) record is not in conformity with the provisions of this chapter. The secretary of state shall certify to the attorney general, for such action as the attorney general may deem appropriate, all interrogatories and answers thereto which disclose a violation of any of the provisions of this chapter.

Sec. 36. RCW 24.03.445 and 1986 c 240 s 56 are each amended to read as follows:

If the secretary of state shall fail to approve any articles of incorporation, amendment, merger, consolidation or dissolution, or any other ((document)) record required by this chapter to be approved by the secretary of state before the same shall be filed in his or her office, the secretary of state shall give written notice of disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. Within thirty days from

such disapproval such person or corporation may appeal to the superior court pursuant to the provisions of the administrative procedure act, chapter 34.05 RCW.

Sec. 37. RCW 24.03.450 and 1982 c 35 s 116 are each amended to read as follows:

All certificates issued by the secretary of state in accordance with the provisions of this chapter, and all copies of ~~((documents))~~ records filed in the office of the secretary of state in accordance with the provisions of this chapter when certified by the secretary of state under the seal of the state, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the secretary of state under the seal of this state, as to the existence or nonexistence of the facts relating to corporations which would not appear from a certified copy of any of the ~~((foregoing documents))~~ records or certificates under this section shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts therein stated.

Sec. 38. RCW 24.03.460 and 1967 c 235 s 93 are each amended to read as follows:

Whenever any notice is required to be given to any member or director of a corporation under the provisions of this chapter or under the provisions of the articles of incorporation or bylaws of the corporation, a waiver ~~((thereof in writing signed))~~ in the form of a record executed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

Sec. 39. RCW 24.03.465 and 1967 c 235 s 94 are each amended to read as follows:

Any action required by this chapter to be taken at a meeting of the members or directors of a corporation, or any action which may be taken at a meeting of the members or directors, may be taken without a meeting if a consent in ~~((writing))~~ the form of a record, setting forth the action so taken, shall be ~~((signed))~~ executed by all of the members entitled to vote with respect to the subject matter thereof, or all of the directors, as the case may be.

Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any articles or ~~((document))~~ record filed with the secretary of state under this chapter.

NEW SECTION. Sec. 40. A new section is added to chapter 24.06 RCW to read as follows:

In addition to any other rights and powers granted under this chapter, any mutual or miscellaneous corporation that was organized under this chapter prior to the effective date of this section and conducts its business on a cooperative basis is entitled, by means of an express election contained in its articles of incorporation or bylaws, to avail itself of part or all of the additional rights and powers granted to cooperative associations under RCW 23.86.105(1), 23.86.160, and 23.86.170, and, if the corporation is a consumer cooperative, under RCW 23.86.030 (1) and (2).

Passed by the Senate March 9, 2004.

Passed by the House March 4, 2004.

Approved by the Governor March 31, 2004.
Filed in Office of Secretary of State March 31, 2004.

CHAPTER 266

[Senate Bill 6417]

ELECTIONS—STATUTE REORGANIZATION

AN ACT Relating to reorganization of statutes on elections; amending RCW 29A.04.255, 29A.04.330, 29A.08.320, 29A.08.620, 29A.08.720, 29A.16.040, 29A.20.020, 29A.60.030, 29A.60.080, and 29A.60.190; reenacting and amending RCW 29A.84.240; reenacting RCW 29.04.075, 29.04.260, 29.33.305, 29.79.075, 29A.32.120, 29A.40.070, 29A.48.010, 29A.48.020, and 29A.84.270; adding new sections to chapter 29A.04 RCW; adding a new section to chapter 29A.12 RCW; adding a new section to chapter 29A.72 RCW; recodifying RCW 29.04.075 and 29.04.260, 29.33.305, and 29.79.075; repealing RCW 29.51.215; and providing an effective date.

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

Sec. 1. RCW 29.04.075 and 2003 c 109 s 1 are each reenacted to read as follows:

The secretary of state, or any staff of the elections division of the office of secretary of state, may make unannounced on-site visits to county election offices and facilities to observe the handling, processing, counting, or tabulation of ballots.

Sec. 2. RCW 29.04.260 and 2003 c 48 s 1 are each reenacted to read as follows:

(1) The election account is created in the state treasury.

(2) The following receipts must be deposited into the account:

Amounts received from the federal government under Public Law 107-252 (October 29, 2002), known as the "Help America Vote Act of 2002," including any amounts received under subsequent amendments to the act; amounts appropriated or otherwise made available by the state legislature for the purposes of carrying out activities for which federal funds are provided to the state under Public Law 107-252, including any amounts received under subsequent amendments to the act; and such other amounts as may be appropriated by the legislature to the account.

(3) Moneys in the account may be spent only after appropriation. Expenditures from the account may be made only to facilitate the implementation of Public Law 107-252.

Sec. 3. RCW 29.33.305 and 2003 c 110 s 1 are each reenacted to read as follows:

(1) The secretary of state shall adopt rules and establish standards for voting technology and systems used by the state or any political subdivision to be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence, as other voters.

(2) At each polling location, at least one voting unit certified by the secretary of state shall provide access to individuals who are blind or visually impaired.

(3) Compliance with this provision in regard to voting technology and systems purchased prior to July 27, 2003, shall be achieved at the time of

procurement of an upgrade of technology compatible with nonvisual voting methods or replacement of existing voting equipment or systems.

(4) Compliance with subsections (2) and (3) of this section is contingent on available funds to implement this provision.

(5) For purposes of this section, the following definitions apply:

(a) "Accessible" includes receiving, using, selecting, and manipulating voter data and controls.

(b) "Nonvisual" includes synthesized speech, Braille, and other output methods.

(c) "Blind and visually impaired" excludes persons who are both deaf and blind.

(6) This section does not apply to voting by absentee ballot.

Sec. 4. RCW 29.79.075 and 2002 c 139 s 1 are each reenacted to read as follows:

The office of financial management, in consultation with the secretary of state, the attorney general, and any other appropriate state or local agency, shall prepare a fiscal impact statement for each of the following state ballot measures: (1) An initiative to the people that is certified to the ballot; (2) an initiative to the legislature that will appear on the ballot; (3) an alternative measure appearing on the ballot that the legislature proposes to an initiative to the legislature; (4) a referendum bill referred to voters by the legislature; and (5) a referendum measure appearing on the ballot. Fiscal impact statements must be written in clear and concise language and avoid legal and technical terms when possible, and may include easily understood graphics.

A fiscal impact statement must describe any projected increase or decrease in revenues, costs, expenditures, or indebtedness that the state or local governments will experience if the ballot measure were approved by state voters. Where appropriate, a fiscal impact statement may include both estimated dollar amounts and a description placing the estimated dollar amounts into context. A fiscal impact statement must include both a summary of not to exceed one hundred words and a more detailed statement that includes the assumptions that were made to develop the fiscal impacts.

Fiscal impact statements must be available online from the secretary of state's web site and included in the state voters' pamphlet.

Sec. 5. RCW 29A.04.255 and 2003 c 111 s 142 are each amended to read as follows:

The secretary of state or a county auditor shall accept and file in his or her office electronic facsimile transmissions of the following documents:

(1) Declarations of candidacy;

(2) County canvass reports;

(3) Voters' pamphlet statements;

(4) Arguments for and against ballot measures that will appear in a voters' pamphlet;

(5) Requests for recounts;

(6) Certification of candidates and measures by the secretary of state;

(7) Direction by the secretary of state for the conduct of a mandatory recount;

(8) Requests for absentee ballots;

(9) Any other election related document authorized by rule adopted by the secretary of state under RCW ((29.04.235)) 29A.04.610.

The acceptance by the secretary of state or the county auditor is conditional upon the document being filed in a timely manner, being legible, and otherwise satisfying the requirements of state law or rules with respect to form and content.

If the original copy of a document must be signed and a copy of the document is filed by facsimile transmission under this section, the original copy must be subsequently filed with the official with whom the facsimile was filed. The original copy must be filed by a deadline established by the secretary by rule. The secretary may by rule require that the original of any document, a copy of which is filed by facsimile transmission under this section, also be filed by a deadline established by the secretary by rule.

Sec. 6. RCW 29A.04.330 and 2003 c 111 s 145 are each amended to read as follows:

(1) All city, town, and district general elections shall be held throughout the state of Washington on the first Tuesday following the first Monday in November in the odd-numbered years.

This section shall not apply to:

(a) Elections for the recall of any elective public officer;

(b) Public utility districts, conservation districts, or district elections at which the ownership of property within those districts is a prerequisite to voting, all of which elections shall be held at the times prescribed in the laws specifically applicable thereto;

(c) Consolidation proposals as provided for in RCW ((28A.315.265)) 28A.315.235 and nonhigh capital fund aid proposals as provided for in chapter 28A.540 RCW.

(2) The county auditor, as ex officio supervisor of elections, upon request in the form of a resolution of the governing body of a city, town, or district, presented to the auditor at least forty-five days prior to the proposed election date, may, if the county auditor deems an emergency to exist, call a special election in such city, town, or district, and for the purpose of such special election he or she may combine, unite, or divide precincts. Except as provided in subsection (3) of this section, such a special election shall be held on one of the following dates as decided by the governing body:

(a) The first Tuesday after the first Monday in February;

(b) The second Tuesday in March;

(c) The fourth Tuesday in April;

(d) The third Tuesday in May;

(e) The day of the primary election as specified by RCW 29A.04.310; or

(f) The first Tuesday after the first Monday in November.

(3) In a presidential election year, if a presidential preference primary is conducted in February, March, April, or May under chapter 29A.56 RCW, the date on which a special election may be called under subsection (2) of this section during the month of that primary is the date of the presidential primary.

(4) In addition to subsection (2)(a) through (f) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God, except that no special election may be held between the first day for candidates to file for public office and the last day to certify the returns of the general election

other than as provided in subsection (2)(e) and (f) of this section. Such special election shall be conducted and notice thereof given in the manner provided by law.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections.

Sec. 7. RCW 29A.08.320 and 2003 c 111 s 223 are each amended to read as follows:

(1) A person may register to vote or transfer a voter registration when he or she applies for service or assistance and with each renewal, recertification, or change of address at agencies designated under RCW ((29-07-420)) 29A.08.310.

(2) A prospective applicant shall initially be offered a form adopted by the secretary of state that is designed to determine whether the person wishes to register to vote. The form must comply with all applicable state and federal statutes regarding content.

The form shall also contain a box that may be checked by the applicant to indicate that he or she declines to register.

If the person indicates an interest in registering or has made no indication as to a desire to register or not register to vote, the person shall be given a mail-in voter registration application or a prescribed agency application as provided by RCW 29A.08.330.

Sec. 8. RCW 29A.08.620 and 2003 c 111 s 239 are each amended to read as follows:

(1) A county auditor shall assign a registered voter to inactive status and shall send the voter a confirmation notice if any of the following documents are returned by the postal service as undeliverable:

- (a) An acknowledgement of registration;
- (b) An acknowledgement of transfer to a new address;
- (c) A vote-by-mail ballot, absentee ballot, or application for a ballot;
- (d) Notification to a voter after precinct reassignment;
- (e) Notification to serve on jury duty; or
- (f) Any other document other than a confirmation notice, required by statute, to be mailed by the county auditor to the voter.

(2) A county auditor shall also assign a registered voter to inactive status and shall send the voter a confirmation notice:

(a) Whenever change of address information received from the department of licensing under RCW 29A.08.350, or by any other agency designated to provide voter registration services under RCW ((29-07-420)) 29A.08.310, indicates that the voter has moved to an address outside the county; or

(b) If the auditor receives postal change of address information under RCW 29A.08.605, indicating that the voter has moved out of the county.

Sec. 9. RCW 29A.08.720 and 2003 c 111 s 247 are each amended to read as follows:

(1) In the case of voter registration records received through the department of licensing, the identity of the office at which any particular individual registered to vote is not available for public inspection and shall not be disclosed to the public. In the case of voter registration records received through an

agency designated under RCW ((29.07.420)) 29A.08.310, the identity of the agency at which any particular individual registered to vote is not available for public inspection and shall not be disclosed to the public. Any record of a particular individual's choice not to register to vote at an office of the department of licensing or a state agency designated under RCW ((29.07.420)) 29A.08.310 is not available for public inspection and any information regarding such a choice by a particular individual shall not be disclosed to the public.

(2) All poll books or current lists of registered voters, except original voter registration forms or their images, shall be public records and be made available for inspection under such reasonable rules and regulations as the county auditor may prescribe. The county auditor shall promptly furnish current lists or mailing labels of registered voters in his or her possession, at actual reproduction cost, to any person requesting such information. The lists and labels shall not be used for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. However, the lists and labels may be used for any political purpose.

Sec. 10. RCW 29A.16.040 and 2003 c 111 s 404 are each amended to read as follows:

The county legislative authority of each county in the state hereafter formed shall, at their first session, divide their respective counties into election precincts and establish the boundaries of the precincts. The county auditor shall thereupon designate the voting place for each such precinct or whether the precinct is a vote by mail precinct.

(1) Precinct boundaries may be altered at any time as long as sufficient time exists prior to a given election for the necessary procedural steps to be honored. Except as permitted under subsection ((4)) (5) of this section, no precinct boundaries may be changed during the period starting on the thirtieth day prior to the first day for candidates to file for the primary election and ending with the day of the general election.

(2) The county legislative authority may establish by ordinance a limitation on the maximum number of active registered voters in each precinct within its jurisdiction. The limitation may be different for precincts based upon the method of voting used for such precincts and the number may be less than the number established by law, but in no case may the number exceed that authorized by law.

(3) Precincts in which voting machines or electronic voting devices are used may contain as many as nine hundred active registered voters. The number of poll-site ballot counting devices at each polling place is at the discretion of the auditor. The number of devices must be adequate to meet the expected voter turnout.

((3)) (4) On petition of twenty-five or more voters resident more than ten miles from any polling site, the county legislative authority shall establish a separate voting precinct therefor.

((4)) (5) The county auditor shall temporarily adjust precinct boundaries when a city or town annexes unincorporated territory to the city or town, or whenever unincorporated territory is incorporated as a city or town. The adjustment must be made as soon as possible after the approval of the annexation or incorporation. The temporary adjustment must be limited to the

minimum changes necessary to accommodate the addition of the territory to the city or town, or to establish the eligible voters within the boundaries of the new city or town, and remains in effect only until precinct boundary modifications reflecting the annexation or incorporation are adopted by the county legislative authority.

~~((The county legislative authority may establish by ordinance a limitation on the maximum number of active registered voters in each precinct within its jurisdiction. The limitation may be different for precincts based upon the method of voting used for such precincts and the number may be less than the number established by law, but in no case may the number exceed that authorized by law.~~

~~The county legislative authority of each county in the state hereafter formed shall, at their first session, divide their respective counties into election precincts and establish the boundaries of the precincts. The county auditor shall thereupon designate the voting place for each such precinct or whether the precinct is a vote-by-mail precinct.~~

~~(5))~~ (6) In determining the number of active registered voters for the purposes of this section, persons who are ongoing absentee voters under RCW 29A.40.040 shall not be counted. Nothing in this subsection may be construed as altering the vote tallying requirements of RCW 29A.60.230.

Sec. 11. RCW 29A.20.020 and 2003 c 111 s 502 are each amended to read as follows:

(1) A person filing a declaration of candidacy for an office shall, at the time of filing, be a registered voter and possess the qualifications specified by law for persons who may be elected to the office.

(2) Excluding the office of precinct committee officer or a temporary elected position such as a charter review board member or freeholder, no person may file for more than one office.

(3) The name of a candidate for an office shall not appear on a ballot for that office unless, except as provided in RCW 3.46.067 and 3.50.057, the candidate is, at the time the candidate's declaration of candidacy is filed, properly registered to vote in the geographic area represented by the office. For the purposes of this section, each geographic area in which registered voters may cast ballots for an office is represented by that office. If a person elected to an office must be nominated from a district or similar division of the geographic area represented by the office, the name of a candidate for the office shall not appear on a primary ballot for that office unless the candidate is, at the time the candidate's declaration of candidacy is filed, properly registered to vote in that district or division. The officer with whom declarations of candidacy must be filed under this title shall review each such declaration filed regarding compliance with this subsection.

(4) ~~((This section does))~~ The requirements of voter registration and residence within the geographic area of a district do not apply to ((the)) candidates for congressional office ((of a member of)). Qualifications for the United States Congress are specified in the United States Constitution.

Sec. 12. RCW 29A.32.120 and 2003 c 254 s 6 and 2003 c 111 s 812 are each reenacted to read as follows:

(1) The maximum number of words for statements submitted by candidates is as follows: State representative, one hundred words; state senator, judge of the superior court, judge of the court of appeals, justice of the supreme court, and all state offices voted upon throughout the state, except that of governor, two hundred words; president and vice president, United States senator, United States representative, and governor, three hundred words.

(2) Arguments written by committees under RCW 29A.32.060 may not exceed two hundred fifty words in length.

(3) Rebuttal arguments written by committees may not exceed seventy-five words in length.

(4) The secretary of state shall allocate space in the pamphlet based on the number of candidates or nominees for each office.

Sec. 13. RCW 29A.40.070 and 2003 c 162 s 2 and 2003 c 111 s 1007 are each reenacted to read as follows:

(1) Except where a recount or litigation under RCW 29A.68.010 is pending, the county auditor shall have sufficient absentee ballots available for absentee voters of that county at least twenty days before any primary, general election, or special election. The county auditor must mail absentee ballots to each voter for whom the county auditor has received a request nineteen days before the primary or election at least eighteen days before the primary or election. For a request for an absentee ballot received after the nineteenth day before the primary or election, the county auditor shall make every effort to mail ballots within one business day, and shall mail the ballots within two business days.

(2) The county auditor shall make every effort to mail ballots to overseas and service voters earlier than eighteen days before a primary or election.

(3) Each county auditor shall certify to the office of the secretary of state the dates the ballots prescribed in subsection (1) of this section were available and mailed.

(4) If absentee ballots will not be available or mailed as prescribed in subsection (1) of this section, the county auditor shall immediately certify to the office of the secretary of state when absentee ballots will be available and mailed. Copies of this certification must be provided to the county canvassing board, the press, jurisdictions with issues on the ballot in the election, and any candidates.

(5) If absentee ballots were not available or mailed as prescribed in subsection (1) of this section, for a reason other than a recount or litigation, the county auditor, in consultation with the certification and training program of the office of the secretary of state, shall submit a report to the office of the secretary of state outlining why the deadline was missed and what corrective actions will be taken in future elections to ensure that absentee ballots are available and mailed as prescribed in subsection (1) of this section.

(6) Failure to have absentee ballots available and mailed as prescribed in subsection (1) of this section does not by itself provide a basis for an election contest or other legal challenge to the results of a primary, general election, or special election.

Sec. 14. RCW 29A.48.010 and 2003 c 162 s 3 and 2003 c 111 s 1201 are each reenacted to read as follows:

The county auditor may designate any precinct having fewer than two hundred active registered voters at the time of closing of voter registration as provided in RCW 29A.08.140 as a mail ballot precinct. The county auditor shall notify each registered voter by mail that for all future primaries and elections the voting in his or her precinct will be by mail ballot only. In determining the number of registered voters in a precinct for the purposes of this section, persons who are ongoing absentee voters under RCW 29A.40.040 shall not be counted. Nothing in this section may be construed as altering the vote tallying requirements of RCW 29A.60.230.

The auditor shall mail each active voter a ballot at least eighteen days before a primary, general election, or special election. The auditor shall send each inactive voter either a ballot or an application to receive a ballot at least eighteen days before a primary, general election, or special election. The auditor shall determine which of the two is to be sent. If the inactive voter returns a voted ballot, the ballot shall be counted and the voter's status restored to active. If the inactive voter completes and returns an application, a ballot shall be sent and the voter's status restored to active. The requirements regarding certification, reporting, and the mailing of overseas and military ballots in RCW 29.36.270 apply to mail ballot precincts.

If the precinct exceeds two hundred registered voters, or the auditor determines to return to a polling place election environment, the auditor shall notify each registered voter, by mail, of this and shall provide the address of the polling place to be used.

Sec. 15. RCW 29A.48.020 and 2003 c 162 s 4 and 2003 c 111 s 1202 are each reenacted to read as follows:

At any nonpartisan special election not being held in conjunction with a state primary or general election, the county, city, town, or district requesting the election pursuant to RCW 29A.04.320 or 29A.04.330 may also request that the special election be conducted by mail ballot. The county auditor may honor the request or may determine that the election is not to be conducted by mail ballot. The decision of the county auditor in this regard is final.

For all special elections not being held in conjunction with a state primary or state general election where voting is conducted by mail ballot, the county auditor shall, not less than eighteen days before the date of such election, mail to each registered voter a mail ballot. The auditor shall handle inactive voters in the same manner as inactive voters in mail ballot precincts. The requirements regarding certification, reporting, and the mailing of overseas and military ballots in RCW 29.36.270 apply to mail ballot elections.

Sec. 16. RCW 29A.60.030 and 2003 c 111 s 1503 are each amended to read as follows:

Except as provided by rule under RCW ((~~29.04.210~~)) 29A.04.610, on the day of the primary or election, the tabulation of ballots at the polling place or at the counting center shall proceed without interruption or adjournment until all of the ballots cast at the polls at that primary or election have been tabulated.

Sec. 17. RCW 29A.60.080 and 2003 c 111 s 1508 are each amended to read as follows:

Except for reopening to make a recanvass, the registering mechanism of each mechanical voting device used in any primary or election shall remain

sealed until ten days after the completion of the canvass of that primary or election in that county. Except where provided by a rule adopted under RCW ((29.04.240)) 29A.04.610, voting devices used in a primary or election shall remain sealed until ten days after the completion of the canvass of that primary or election in that county.

Sec. 18. RCW 29A.60.190 and 2003 c 111 s 1519 are each amended to read as follows:

(1) On the tenth day after a special election or primary and on the fifteenth day after a general election, the county canvassing board shall complete the canvass and certify the results. Each absentee ballot that was returned before the closing of the polls on the date of the primary or election for which it was issued, and each absentee ballot with a postmark on or before the date of the primary or election for which it was issued and received on or before the date on which the primary or election is certified, must be included in the canvass report.

(2) At the request of a caucus of the state legislature, the county auditor shall transmit copies of all unofficial returns of state and legislative primaries or elections prepared by or for the county canvassing board to either the secretary of the senate or the chief clerk of the house ((or {or})) of representatives.

Sec. 19. RCW 29A.84.240 and 2003 c 111 s 2112 and 2003 c 53 s 183 are each reenacted and amended to read as follows:

(1) Every person who signs a recall petition with any other than his or her true name is guilty of a class B felony punishable according to chapter 9A.20 RCW.

(2) Every person who knowingly (a) signs more than one petition for the same recall, (b) signs a recall petition when he or she is not a legal voter, or (c) makes a false statement as to ((his or her)) residence on any recall petition is guilty of a gross misdemeanor.

(3) Every registration officer who makes any false report or certificate on any recall petition is guilty of a gross misdemeanor.

Sec. 20. RCW 29A.84.270 and 2003 c 111 s 2115 and 2003 c 53 s 178 are each reenacted to read as follows:

Any person who with intent to mislead or confuse the electors conspires with another person who has a surname similar to an incumbent seeking reelection to the same office, or to an opponent for the same office whose political reputation has been well established, by persuading such other person to file for such office with no intention of being elected, but to defeat the incumbent or the well known opponent, is guilty of a class B felony punishable according to chapter 9A.20 RCW. In addition, all conspirators are subject to a suit for civil damages, the amount of which may not exceed the salary that the injured person would have received had he or she been elected or reelected.

NEW SECTION. **Sec. 21.** RCW 29.51.215 and 2003 c 111 s 2135 are each repealed.

NEW SECTION. **Sec. 22.** RCW 29.04.075 and 29.04.260 are each recodified as sections in chapter 29A.04 RCW.

NEW SECTION. **Sec. 23.** RCW 29.33.305 is recodified as a section in chapter 29A.12 RCW.

NEW SECTION. **Sec. 24.** RCW 29.79.075 is recodified as a section in chapter 29A.72 RCW.

NEW SECTION. **Sec. 25.** This act takes effect July 1, 2004.

Passed by the Senate February 3, 2004.

Passed by the House March 2, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 267

[Substitute Senate Bill 6419]

HELP AMERICA VOTE ACT

AN ACT Relating to implementing the requirements of the Help America Vote Act; amending RCW 29A.08.010, 29A.08.020, 29A.08.030, 29A.08.105, 29A.08.110, 29A.08.115, 29A.08.120, 29A.08.125, 29A.08.135, 29A.08.140, 29A.08.145, 29A.08.155, 29A.08.220, 29A.08.240, 29A.08.250, 29A.08.260, 29A.08.320, 29A.08.350, 29A.08.360, 29A.08.420, 29A.08.430, 29A.08.510, 29A.08.520, 29A.08.540, 29A.08.605, 29A.08.610, 29A.08.620, 29A.08.630, 29A.08.640, 29A.08.710, 29A.08.760, 29A.08.770, 11.88.010, 29A.16.010, 29A.16.130, 29A.44.030, 29A.44.040, 29A.44.220, 29A.44.350, 29.33.305, and 29A.04.610; adding new sections to chapter 29A.08 RCW; adding new sections to chapter 29A.84 RCW; adding new sections to chapter 29A.04 RCW; adding new sections to chapter 29A.12 RCW; adding a new chapter to Title 29A RCW; creating a new section; repealing RCW 29A.04.181, 29A.08.530, 29A.08.645, 29A.08.650, and 29A.08.750; prescribing penalties; providing effective dates; providing an expiration date; and declaring an emergency.

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

PART I

STATEWIDE VOTER REGISTRATION DATA BASE

NEW SECTION. **Sec. 101.** (1) The office of the secretary of state shall create and maintain a statewide voter registration data base. This data base must be a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level that contains the name and registration information of every legally registered voter in the state and assigns a unique identifier to each legally registered voter in the state.

(2) The computerized list must serve as the single system for storing and maintaining the official list of registered voters throughout the state.

(3) The computerized list must contain the name and registration information of every legally registered voter in the state.

(4) Under the computerized list, a unique identifier is assigned to each legally registered voter in the state.

(5) The computerized list must be coordinated with other agency data bases within the state, including but not limited to the department of corrections, the department of licensing, and the department of health.

(6) Any election officer in the state, including any local election officer, may obtain immediate electronic access to the information contained in the computerized list.

(7) All voter registration information obtained by any local election officer in the state must be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local officer.

(8) The chief state election officer shall provide support, as may be required, so that local election officers are able to enter information as described in subsection (3) of this section.

(9) The computerized list serves as the official voter registration list for the conduct of all elections.

(10) The secretary of state has data authority on all voter registration data.

(11) The voter registration data base must be designed to accomplish at a minimum, the following:

(a) Comply with the Help America Vote Act of 2002 (P.L. 107-252);

(b) Identify duplicate voter registrations;

(c) Identify suspected duplicate voters;

(d) Screen against the department of corrections data base to aid in the cancellation of voter registration of felons;

(e) Provide up-to-date signatures of voters for the purposes of initiative signature checking;

(f) Provide for a comparison between the voter registration data base and the department of licensing change of address data base;

(g) Provide online access for county auditors with the goal of real time duplicate checking and update capabilities; and

(h) Provide for the cancellation of voter registration for persons who have moved to other states and surrendered their Washington state drivers' licenses.

Sec. 102. RCW 29A.08.010 and 2003 c 111 s 201 are each amended to read as follows:

As used in this chapter: "Information required for voter registration" means the minimum information provided on a voter registration application that is required by the county auditor in order to place a voter registration applicant on the voter registration rolls. This information includes the applicant's name, complete residence address, date of birth, ~~((and))~~ Washington state driver's license number, Washington state identification card, or the last four digits of the applicant's social security number, a signature attesting to the truth of the information provided on the application, and a check or indication in the box confirming the individual is a United States citizen. If the individual does not have a driver's license or social security number the registrant must be issued a unique voter registration number and placed on the voter registration rolls. All other information supplied is ancillary and not to be used as grounds for not registering an applicant to vote. Modification of the language of the official Washington state voter registration form by the voter will not be accepted and will cause the rejection of the registrant's application.

Sec. 103. RCW 29A.08.020 and 2003 c 111 s 204 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "By mail" means delivery of a completed original voter registration application by mail ~~((or by personal delivery))~~ to the office of the secretary of state.

(2) For voter registration applicants, "date of mailing" means the date of the postal cancellation on the voter registration application. This date will also be used as the date of application for the purpose of meeting the registration cutoff

deadline. If the postal cancellation date is illegible then the date of receipt by the elections official is considered the date of application. If an application is received by the elections official by the close of business on the fifth day after the cutoff date for voter registration and the postal cancellation date is illegible, the application will be considered to have arrived by the cutoff date for voter registration.

Sec. 104. RCW 29A.08.030 and 2003 c 111 s 203 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Verification notice" means a notice sent by the county auditor or secretary of state to a voter registration applicant and is used to verify or collect information about the applicant in order to complete the registration.

(2) "Acknowledgement notice" means a notice sent by nonforwardable mail by the county auditor or secretary of state to a registered voter to acknowledge a voter registration transaction, which can include initial registration, transfer, or reactivation of an inactive registration. An acknowledgement notice may be a voter registration card.

(3) "Confirmation notice" means a notice sent to a registered voter by first class forwardable mail at the address indicated on the voter's permanent registration record and to any other address at which the county auditor or secretary of state could reasonably expect mail to be received by the voter in order to confirm the voter's residence address. The confirmation notice must be designed so that the voter may update his or her current residence address.

Sec. 105. RCW 29A.08.105 and 2003 c III s 205 are each amended to read as follows:

(1) In compliance with the Help America Vote Act (P.L. 107-252), the centralized statewide voter registration list maintained by the secretary of state is the official list of eligible voters for all elections.

(2) In all counties, the county auditor shall be the chief registrar of voters for every precinct within the county. The auditor may appoint registration assistants to assist in registering persons residing in the county. Each registration assistant holds office at the pleasure of the county auditor and must be a registered voter.

~~((2) The county auditor shall be the custodian of the official registration records of the county.)~~

(3) The county auditor shall ensure that mail-in voter registration application forms are readily available to the public at locations to include but not limited to the elections office, and all common schools, fire stations, and public libraries.

NEW SECTION. Sec. 106. (1) The secretary of state must review the information provided by each voter registration applicant to ensure that either the driver's license number or the last four digits of the social security number match the information maintained by the Washington department of licensing or the social security administration. If a match cannot be made the secretary of state must correspond with the applicant to resolve the discrepancy.

(2) If the applicant fails to respond to any correspondence required in this section to confirm information provided on a voter registration application,

within thirty days the secretary of state shall forward the application to the appropriate county auditor for document storage.

(3) Only after the secretary of state has confirmed that an applicant's driver's license number or the last four digits of the applicant's social security number match existing records with the Washington department of licensing or the social security administration or determined that the applicant does not have either a driver's license number or social security number may the applicant be placed on the official list of registered voters.

Sec. 107. RCW 29A.08.110 and 2003 c 111 s 206 are each amended to read as follows:

(1) On receipt of an application for voter registration (~~under this chapter~~), the county auditor shall review the application to determine whether the information supplied is complete. An application (~~that~~) is considered complete only if it contains the applicant's name, complete valid residence address, date of birth, and signature attesting to the truth of the information provided (~~on the application is complete~~) and an indication the license information or social security number has been confirmed by the secretary of state. If it is not complete, the auditor shall promptly mail a verification notice of the deficiency to the applicant. This verification notice shall require the applicant to provide the missing information. If the verification notice is not returned by the applicant or is returned as undeliverable the auditor shall not place the name of the applicant on the county voter list. If the applicant provides the required verified information, the applicant shall be registered to vote as of the date of mailing of the original voter registration application.

(2) In order to prevent duplicate registration records, all complete voter registration applications must be screened against existing voter registration records in the official statewide voter registration list. If a match of an existing record is found in the official list the record must be updated with the new information provided on the application. If the new information indicates that the voter has changed his or her county of residence, the application must be forwarded to the voter's new county of residence for processing. If the new information indicates that the voter remains in the same county of residence or if the applicant is a new voter the application must be processed by the county of residence.

(3) If the information required in subsection (1) of this section is complete, the applicant is considered to be registered to vote as of the date of mailing. The auditor shall record the appropriate precinct identification, taxing district identification, and date of registration on the voter's record in the state voter registration list. Within forty-five days after the receipt of an application but no later than seven days before the next primary, special election, or general election, the auditor shall send to the applicant, by first class mail, an acknowledgement notice identifying the registrant's precinct and containing such other information as may be required by the secretary of state. The postal service shall be instructed not to forward a voter registration card to any other address and to return to the auditor any card which is not deliverable. (~~If the applicant has indicated that he or she is registered to vote in another county in Washington but has also provided an address within the auditor's county that is for voter registration purposes, the auditor shall send, on behalf of the registrant, a registration cancellation notice to the auditor of that other county and the~~

auditor receiving the notice shall cancel the registrant's voter registration in that other county.) If the registrant has indicated on the form that he or she is registered to vote within the county but has provided a new address within the county that is for voter registration purposes, the auditor shall transfer the voter's registration.

~~((3))~~ (4) If an acknowledgement notice card is properly mailed as required by this section to the address listed by the voter as being the voter's mailing address and the notice is subsequently returned to the auditor by the postal service as being undeliverable to the voter at that address, the auditor shall promptly send the voter a confirmation notice. The auditor shall place the voter's registration on inactive status pending a response from the voter to the confirmation notice.

Sec. 108. RCW 29A.08.115 and 2003 c 111 s 207 are each amended to read as follows:

~~(Every registration assistant shall keep registration supplies at his or her usual place of residence or usual place of business.)~~ A person or organization collecting voter registration application forms must transmit the forms to the secretary of state or a designee at least once weekly.

Sec. 109. RCW 29A.08.120 and 2003 c 111 s 208 are each amended to read as follows:

Any elector of this state may register to vote by mail under this ~~(chapter)~~ title.

Sec. 110. RCW 29A.08.125 and 2003 c 111 s 209 are each amended to read as follows:

Each county auditor shall maintain a computer file containing ~~(the records)~~ a copy of each record of all registered voters within the county contained on the official statewide voter registration list for that county. ~~(The auditor may provide for the establishment and maintenance of such files by private contract or through interlocal agreement as provided by chapter 39.34 RCW.)~~ The computer file must include, but not be limited to, each voter's last name, first name, middle initial, date of birth, residence address, gender, date of registration, applicable taxing district and precinct codes, and the last date on which the individual voted. The county auditor shall subsequently record each consecutive date upon which the individual has voted and retain ~~(at least the last five)~~ all such consecutive dates. ~~(If the voter has not voted at least five times since establishing his or her current registration record, only the available dates will be included.)~~

Sec. 111. RCW 29A.08.135 and 2003 c 111 s 211 are each amended to read as follows:

The county auditor shall acknowledge each new voter registration or transfer by providing or sending the voter a card identifying his or her current precinct and containing such other information as may be prescribed by the secretary of state. When a person who has previously registered to vote in ~~(a jurisdiction)~~ another state applies for voter registration ~~(in a new jurisdiction)~~, the person shall provide on the registration form, all information needed to cancel any previous registration. ~~(The county auditor shall forward any information pertaining to the voter's prior voter registration to the county where the voter was previously registered, so that registration may be canceled. If the~~

~~prior voter registration is in another state, the))~~ Notification must be made to the state elections office of ~~((that))~~ the applicant's previous state of registration. A county auditor receiving official information that a voter has registered to vote in another ~~((jurisdiction))~~ state shall immediately cancel that voter's registration on the official state voter registration list.

Sec. 112. RCW 29A.08.140 and 2003 c 111 s 212 are each amended to read as follows:

The registration files of all precincts shall be closed against original registration or transfers for thirty days immediately preceding every primary, special election, and general election to be held in such precincts.

The county auditor shall give notice of the closing of the precinct files for original registration and transfer and notice of the special registration and voting procedure provided by RCW 29A.08.145 by one publication in a newspaper of general circulation in the county at least five days before the closing of the precinct files.

No person may vote at any primary, special election, or general election in a precinct polling place unless he or she has registered to vote at least thirty days before that primary or election and appears on the official statewide voter registration list. If a person, otherwise qualified to vote in the state, county, and precinct in which he or she applies for registration, does not register at least thirty days before any primary, special election, or general election, he or she may register and vote by absentee ballot for that primary or election under RCW 29A.08.145.

Sec. 113. RCW 29A.08.145 and 2003 c 111 s 213 are each amended to read as follows:

This section establishes a special procedure which an elector may use to register to vote or transfer a voter registration by changing his or her address during the period beginning after the closing of registration for voting at the polls under RCW 29A.08.140 and ending on the fifteenth day before a primary, special election, or general election. A qualified elector in the ~~((county))~~ state may register to vote or change his or her registration address in person in the office of the county auditor or at a voter registration location specifically designated for this purpose by the county auditor of the county in which the applicant resides, and apply for an absentee ballot for that primary or election. The auditor or registration assistant shall register that individual in the manner provided in this chapter. The application for an absentee ballot executed by the newly registered or transferred voter for the primary or election that follows the execution of the registration shall be promptly transmitted to the auditor with the completed voter registration form.

Sec. 114. RCW 29A.08.155 and 2003 c 111 s 215 are each amended to read as follows:

To compensate counties with fewer than ten thousand registered voters at the time of the most recent state general election for unrecoverable costs incident to the maintenance of voter registration records on electronic data processing systems, the secretary of state shall, in June of each year, pay such counties an amount equal to ~~((thirty cents))~~ one dollar for each registered voter in the county at the time of the most recent state general election, as long as funds provided for elections by the Help America Vote Act of 2002 (P.L. 107-252) are available.

Sec. 115. RCW 29A.08.220 and 2003 c 111 s 217 are each amended to read as follows:

(1) The secretary of state shall specify by rule the format of all voter registration applications. These applications shall be compatible with existing voter registration records. An applicant for voter registration shall be required to complete only one application and to provide the required information other than his or her signature no more than one time. These applications shall also contain information for the voter to transfer his or her registration.

Any application format specified by the secretary for use in registering to vote in state and local elections shall satisfy the requirements of the National Voter Registration Act of 1993 (P.L. 103-31) and the Help America Vote Act of 2002 (P.L. 107-252) for registering to vote in federal elections.

~~(2) ((The secretary of state shall adopt by rule a uniform data format for transferring voter registration records on machine-readable media.~~

~~(3))~~ All registration applications required under RCW 29A.08.210 and 29A.08.340 shall be produced and furnished by the secretary of state to the county auditors and the department of licensing.

~~((4) The secretary of state shall produce and distribute any instructional material and other supplies needed to implement RCW 29A.08.340 and 46.20.155.~~

~~(5) Any notice or statement that must be provided under the National Voter Registration Act of 1993 (P.L. 103-31) to prospective registrants concerning registering to vote in federal elections shall also be provided to prospective registrants concerning registering to vote under this title in state and local elections as well as federal elections.))~~

Sec. 116. RCW 29A.08.240 and 2003 c 111 s 219 are each amended to read as follows:

(1) Until January 1, 2006, at the time of registering, a voter shall sign his or her name upon a signature card to be transmitted to the secretary of state. The voter shall also provide his or her first name followed by the last name or names and the name of the county in which he or she is registered. Once each week the county auditor shall transmit all such cards to the secretary of state. The secretary of state may exempt a county auditor who is providing electronic voter registration and electronic voter signature information to the secretary of state from the requirements of this section.

(2) This section expires January 1, 2006.

Sec. 117. RCW 29A.08.250 and 2003 c 111 s 220 are each amended to read as follows:

The secretary of state shall furnish registration forms necessary to carry out the registration of voters as provided by this chapter without cost to the respective counties. All voter registration forms must include clear and conspicuous language, designed to draw an applicant's attention, stating that the applicant must be a United States citizen in order to register to vote. Voter registration application forms must also contain a space for the applicant to provide his or her driver's license number or the last four digits of his or her social security number as well as check boxes intended to allow the voter to indicate age and United States citizenship eligibility under the Help America Vote Act of 2002 (P.L. 107-252).

Sec. 118. RCW 29A.08.260 and 2003 c 111 s 221 are each amended to read as follows:

The county auditor shall distribute forms by which a person may register to vote by mail and ~~((cancel))~~ transfer any previous registration in this state. The county auditor shall keep a supply of voter registration forms in his or her office at all times for political parties and others interested in assisting in voter registration, and shall make every effort to make these forms generally available to the public. The county auditor shall provide voter registration forms to city and town clerks, state offices, schools, fire stations, and any other locations considered appropriate by the auditor or secretary of state for extending registration opportunities to all areas of the county. After the initial distribution of voter registration forms to a given location, a representative designated by the official in charge of that location shall notify the county auditor of the need for additional voter registration supplies.

Sec. 119. RCW 29A.08.320 and 2003 c 111 s 223 are each amended to read as follows:

(1) A person may register to vote or transfer a voter registration when he or she applies for service or assistance and with each renewal, recertification, or change of address at agencies designated under RCW ~~((29.07.420))~~ 29A.08.310.

(2) A prospective applicant shall initially be offered a form ~~((adopted))~~ approved by the secretary of state ~~((that is))~~ designed to determine whether the person wishes to register to vote. The form must comply with all applicable state and federal statutes regarding content.

The form shall also contain a box that may be checked by the applicant to indicate that he or she declines to register.

If the person indicates an interest in registering or has made no indication as to a desire to register or not register to vote, the person shall be given a mail-in voter registration application or a prescribed agency application as provided by RCW 29A.08.330.

Sec. 120. RCW 29A.08.350 and 2003 c 111 s 226 are each amended to read as follows:

(1) The secretary of state shall provide for the voter registration forms submitted under RCW 29A.08.340 to be collected from each driver's licensing facility within five days of their completion.

(2) The department of licensing shall produce and transmit to the secretary of state a machine-readable file containing the following information from the records of each individual who requested a voter registration or transfer at a driver's license facility during each period for which forms are transmitted under subsection (1) of this section: The name, address, date of birth, gender of the applicant, the driver's license number, the date on which the application for voter registration or transfer was submitted, and the location of the office at which the application was submitted.

(3) The voter registration forms from the driver's licensing facilities must be forwarded to the county in which the applicant has registered to vote no later than ten days after the date on which the forms were to be collected.

(4) For a voter registration application where the address for voting purposes is different from the address in the machine-readable file received from the department of licensing, the secretary of state shall amend the record of that

application in the machine-readable file to reflect the county in which the applicant has registered to vote.

(5) The secretary of state shall sort the records in the machine-readable file according to the county in which the applicant registered to vote and produce a file of voter registration transactions for each county. The records of each county may be transmitted on or through whatever medium the county auditor determines will best facilitate the incorporation of these records into the existing voter registration files of that county.

(6) The secretary of state shall produce a list of voter registration transactions for each county and transmit a copy of this list to that county with each file of voter registration transactions no later than ten days after the date on which that information was to be transmitted under subsection (1) of this section.

~~((7) If a registrant has indicated on the voter registration application form that he or she is registered to vote in another county in Washington but has also provided an address within the auditor's county that is for voter registration purposes, the auditor shall send, on behalf of the registrant, a registration cancellation notice to the auditor of that other county and the auditor receiving the notice shall cancel the registrant's voter registration in that other county. If the registrant has indicated on the form that he or she is registered to vote within the county but has provided a new address within the county that is for voter registration purposes, the auditor shall transfer the voter's registration.))~~

Sec. 121. RCW 29A.08.360 and 2003 c 111 s 227 are each amended to read as follows:

(1) The department of licensing shall provide information on all persons changing their address on change of address forms submitted to the department unless the voter has indicated that the address change is not for voting purposes. This information will be transmitted to the secretary of state each week in a machine-readable file containing the following information on persons changing their address: The name, address, date of birth, gender of the applicant, the applicant's driver's license number, the applicant's former address, the county code for the applicant's former address, and the date that the request for address change was received.

(2) The secretary of state shall forward this information to the appropriate county each week. When the information indicates that the voter has moved ~~((within the county)),~~ the county auditor shall use the change of address information to transfer the voter's registration and send the voter an acknowledgement notice of the transfer. ~~((If the information indicates that the new address is outside the voter's original county, the county auditor shall send the voter a registration by mail form at the voter's new address and advise the voter of the need to reregister in the new county. The auditor shall then place the voter on inactive status.))~~

Sec. 122. RCW 29A.08.420 and 2003 c 111 s 229 are each amended to read as follows:

A registered voter who changes his or her residence from one county to another county ~~((, shall be required to register anew. The voter shall sign an authorization to cancel his or her current registration. An authorization to cancel a voter's registration must be forwarded promptly to the county auditor of the county in which the voter was previously registered))~~ must do so in writing

using a prescribed voter registration form. The county auditor of the voter's new county ~~((where the previous registration was made shall cancel the registration of the voter if it appears that the signatures in the registration record and on the cancellation authorization form were made by the same person))~~ shall transfer the voter's registration from the county of the previous registration.

Sec. 123. RCW 29A.08.430 and 2003 c 111 s 230 are each amended to read as follows:

(1) A person who is registered to vote in this state may transfer his or her voter registration on the day of a special or general election or primary under the following procedures:

(a) The voter may complete, at the polling place, a voter registration ~~((transfer))~~ form designed by the secretary of state and supplied by the county auditor; or

(b) For a change within the county, the voter may write in his or her new residential address in the precinct list of registered voters.

The county auditor shall determine which of these two procedures are to be used in the county or may determine that both procedures are to be available to voters for use in the county.

(2) A voter who transfers his or her registration in the manner authorized by this section shall vote in the precinct in which he or she was previously registered.

(3) The auditor shall, within ~~((ninety))~~ sixty days, mail to each voter who has transferred a registration under this section ~~((a)), an acknowledgement~~ notice ~~((of))~~ detailing his or her current precinct and polling place.

Sec. 124. RCW 29A.08.510 and 2003 c 111 s 232 are each amended to read as follows:

In addition to case-by-case maintenance under RCW 29A.08.620 and 29A.08.630 and the general program of maintenance of voter registration lists under RCW 29A.08.605, deceased voters will be canceled from voter registration lists as follows:

(1) ~~((Every month))~~ Periodically, the registrar of vital statistics of the state shall prepare a ~~((separate))~~ list of persons who resided in each county, for whom a death certificate was transmitted to the registrar and was not included on a previous list, and shall supply the ~~((appropriate))~~ list to ~~((each county auditor))~~ the secretary of state.

~~((A county auditor))~~ The secretary of state shall compare this list with the registration records and cancel the registrations of deceased voters within at least forty-five days before the next primary or election ~~((held in the county after the auditor receives the list)).~~

(2) In addition, ~~((the))~~ each county auditor may also use newspaper obituary articles as a source of information in order to cancel a voter's registration from the official state voter registration list. The auditor must verify the identity of the voter by matching the voter's date of birth or an address. The auditor shall record the date and source of the obituary in the cancellation records.

(3) In addition, any registered voter may sign a statement, subject to the penalties of perjury, to the effect that to his or her personal knowledge or belief another registered voter is deceased. This statement may be filed with the county auditor or the secretary of state. Upon the receipt of such signed

statement, the county auditor or the secretary of state shall cancel the registration records concerned (~~(and so notify the secretary of state)~~) from the official state voter registration list.

NEW SECTION. Sec. 125. Upon receiving official notice that a court has imposed a guardianship for an incapacitated person and has determined that the person is incompetent for the purpose of rationally exercising the right to vote, under chapter 11.88 RCW, if the incapacitated person is a registered voter in the county, the county auditor shall cancel the incapacitated person's voter registration.

Sec. 126. RCW 29A.08.520 and 2003 c 111 s 233 are each amended to read as follows:

Upon receiving official notice of a person's conviction of a felony in either state or federal court, if the convicted person is a registered voter in the county, the county auditor shall cancel the defendant's voter registration. Additionally, the secretary of state in conjunction with the department of corrections shall arrange for a periodic comparison of a list of known felons with the statewide voter registration list. If a person is found on the department of corrections felon list and the statewide voter registration list, the secretary of state or county auditor shall confirm the match through a date of birth comparison and cancel the voter registration from the official state voter registration list. The canceling authority shall send notice of the proposed cancellation to the person at his or her last known voter registration address.

Sec. 127. RCW 29A.08.540 and 2003 c 111 s 235 are each amended to read as follows:

~~((Every county auditor shall carefully preserve in a separate file or list the))~~ Registration records of persons whose voter registrations have been canceled as authorized under this title~~((The files or lists shall be kept))~~ must be preserved in the manner prescribed by rule by the secretary of state. Information from such canceled registration records is available for public inspection and copying to the same extent established by RCW 29A.08.710 for other voter registration information.

~~((The county auditor may destroy the voter registration information and records of any person whose voter registration has been canceled for a period of two years or more.))~~

Sec. 128. RCW 29A.08.605 and 2003 c 111 s 236 are each amended to read as follows:

In addition to the case-by-case maintenance required under RCW 29A.08.620 and 29A.08.630 and the canceling of registrations under RCW 29A.08.510, the secretary of state and the county auditor shall cooperatively establish a general program of voter registration list maintenance. This program must be a thorough review that is applied uniformly throughout the county and must be nondiscriminatory in its application. Any program established must be completed at least once every two years and not later than ninety days before the date of a primary or general election for federal office. ~~((The county may fulfill its obligations under this section))~~ This obligation may be fulfilled in one of the following ways:

(1) The ~~((county auditor))~~ secretary of state may enter into one or more contracts with the United States postal service, or its licensee, which permit the

~~((auditor to)) use of postal service change-of-address information. If the ((auditor receives)) change of address information is received from the United States postal service that indicates that a voter has changed his or her residence address within the ((county)) state, the auditor shall transfer the registration of that voter and send a confirmation notice informing the voter of the transfer to the new address. ~~((If the auditor receives postal change-of-address information indicating that the voter has moved out of the county, the auditor shall send a confirmation notice to the voter and advise the voter of the need to reregister in the new county. The auditor shall place the voter's registration on inactive status));~~~~

(2) A direct, nonforwardable, nonprofit or first-class mailing to every registered voter ~~((within the county))~~ bearing the postal endorsement "Return Service Requested." If address correction information for a voter is received by the county auditor after this mailing, the auditor shall place that voter on inactive status and shall send to the voter a confirmation notice;

(3) Any other method approved by the secretary of state.

Sec. 129. RCW 29A.08.610 and 2003 c 111 s 237 are each amended to read as follows:

In addition to the case-by-case cancellation procedure required in RCW 29A.08.420, ~~((the county auditor, in conjunction with the office of))~~ the secretary of state, shall ~~((participate in an annual))~~ conduct an ongoing list maintenance program designed to detect persons registered in more than one county or voting in more than one county in an election. This program must be applied uniformly throughout the ((county)) state and must be nondiscriminatory in its application. The program must be completed not later than thirty days before the date of a primary or general election.

The office of the secretary of state shall ~~((cause to be created a list of))~~ search the statewide voter registration list to find registered voters with the same date of birth and similar names ~~((who appear on two or more county lists of registered voters)).~~ The ~~((office of the))~~ secretary of state shall ~~((forward this list to each county auditor so that they may properly cancel the previous registration of voters who have subsequently registered in a different county. The county auditor of the county where the previous registration was made shall cancel the registration of the voter if it appears that the signatures in the registration and the signature provided to the new county on the voter's new registration were made by the same person))~~ compare the signatures on each voter registration record and after confirming that a duplicate registration exists properly resolve the duplication.

If a voter is suspected of voting in two or more counties in an election, the county auditors in each county shall cooperate without delay to determine the voter's county of residence. The county auditor of the county of residence of the voter suspected of voting in two or more counties shall take action under RCW 29A.84.010 without delay.

Sec. 130. RCW 29A.08.620 and 2003 c 111 s 239 are each amended to read as follows:

(1) A county auditor shall assign a registered voter to inactive status and shall send the voter a confirmation notice if any of the following documents are returned by the postal service as undeliverable:

(a) An acknowledgement of registration;
 (b) An acknowledgement of transfer to a new address;
 (c) A vote-by-mail ballot, absentee ballot, or application for a ballot;
 (d) Notification to a voter after precinct reassignment;
 (e) Notification to serve on jury duty; or
 (f) Any other document other than a confirmation notice, required by statute, to be mailed by the county auditor to the voter.

(2) A county auditor shall also assign a registered voter to inactive status and shall send the voter a confirmation notice:

(a) Whenever change of address information received from the department of licensing under RCW 29A.08.350, or by any other agency designated to provide voter registration services under RCW ~~((29.07.420))~~ 29A.08.310, indicates that the voter has moved to an address outside the ~~((county))~~ state; or

(b) If the auditor receives postal change of address information under RCW 29A.08.605, indicating that the voter has moved out of the ~~((county))~~ state.

Sec. 131. RCW 29A.08.630 and 2003 c 111 s 241 are each amended to read as follows:

The county auditor shall return an inactive voter to active voter status if, during the period beginning on the date the voter was assigned to inactive status and ending on the day of the second general election for federal office that occurs after the date that the voter was sent a confirmation notice, the voter: Notifies the auditor of a change of address within the county; responds to a confirmation notice with information that the voter continues to reside at the registration address; votes or attempts to vote in a primary or a special or general election and resides within the county; or signs any petition authorized by statute for which the signatures are required by law to be verified by the county auditor or secretary of state. If the inactive voter fails to provide such a notice or take such an action within that period, the auditor shall cancel the person's voter registration.

Sec. 132. RCW 29A.08.640 and 2003 c 111 s 243 are each amended to read as follows:

If the response to the confirmation notice provides the county auditor with the information indicating that the voter has moved within the county, the auditor shall transfer the voter's registration. If the response indicates a move out of a county, but within the state, the auditor shall place the registration in inactive status for transfer pending acceptance by the county indicated by the new address. The auditor shall immediately notify the auditor of the county with the new address. If the response indicates that the voter has left the ~~((county))~~ state, the auditor shall cancel the voter's registration on the official state voter registration list.

Sec. 133. RCW 29A.08.710 and 2003 c 111 s 246 are each amended to read as follows:

(1) The county auditor shall have custody of the original voter registration records for each county. The original voter registration form must be filed without regard to precinct and is considered confidential and unavailable for public inspection and copying. An automated file of all registered voters must be maintained pursuant to RCW 29A.08.125. An auditor may maintain the automated file in lieu of filing or maintaining the original voter registration

forms if the automated file includes all of the information from the original voter registration forms including, but not limited to, a retrievable facsimile of each voter's signature.

(2) The following information contained in voter registration records or files regarding a voter or a group of voters is available for public inspection and copying: The voter's name, gender, voting record, date of registration, and registration number. The address and political jurisdiction of a registered voter are available for public inspection and copying except as provided by chapter 40.24 RCW. No other information from voter registration records or files is available for public inspection or copying.

Sec. 134. RCW 29A.08.760 and 2003 c 111 s 251 are each amended to read as follows:

~~((As soon as any or all of the voter registration data from the counties has been received under RCW 29A.08.750 and processed, the secretary of state shall provide a duplicate copy of this data to the political party organization or other individual making the request, at cost, shall provide a duplicate copy of the master statewide computer tape or data file of registered voters to the statute law committee without cost, and))~~ The secretary of state shall provide a duplicate copy of the master statewide computer ~~((tape))~~ file or electronic data file of registered voters to the department of information services for purposes of creating the jury source list without cost. Restrictions as to the commercial use of the information on the statewide computer tape or data file of registered voters, and penalties for its misuse, shall be the same as provided in RCW 29A.08.730 and 29A.08.740.

Sec. 135. RCW 29A.08.770 and 2003 c 111 s 252 are each amended to read as follows:

The secretary of state and each county auditor shall maintain for at least two years and shall make available for public inspection and copying all records concerning the implementation of programs and activities conducted for the purpose of insuring the accuracy and currency of official lists of eligible voters. These records must include lists of the names and addresses of all persons to whom notices are sent and information concerning whether or not each person has responded to the notices. These records must contain lists of all persons removed from the list of eligible voters and the reasons why the voters were removed.

NEW SECTION. Sec. 136. Only voters who appear on the official statewide voter registration list are eligible to participate in elections. Each county shall maintain a copy of that county's portion of the state list. The county must ensure that data used for the production of poll lists and other lists and mailings done in the administration of each election are drawn from the official statewide voter registration list.

NEW SECTION. Sec. 137. Each county shall ensure complete freedom of electronic access and information transfer between the county's election management and voter registration system and the secretary of state's official statewide voter registration list.

NEW SECTION. Sec. 138. Any state or local election officer, or a designee, who has access to any county or statewide voter registration data base who knowingly uses or alters information in the data base inconsistent with the

performance of his or her duties is guilty of a class C felony, punishable under RCW 9A.20.021.

Sec. 139. RCW 11.88.010 and 1991 c 289 s 1 are each amended to read as follows:

(1) The superior court of each county shall have power to appoint guardians for the persons and/or estates of incapacitated persons, and guardians for the estates of nonresidents of the state who have property in the county needing care and attention.

(a) For purposes of this chapter, a person may be deemed incapacitated as to person when the superior court determines the individual has a significant risk of personal harm based upon a demonstrated inability to adequately provide for nutrition, health, housing, or physical safety.

(b) For purposes of this chapter, a person may be deemed incapacitated as to the person's estate when the superior court determines the individual is at significant risk of financial harm based upon a demonstrated inability to adequately manage property or financial affairs.

(c) A determination of incapacity is a legal not a medical decision, based upon a demonstration of management insufficiencies over time in the area of person or estate. Age, eccentricity, poverty, or medical diagnosis alone shall not be sufficient to justify a finding of incapacity.

(d) A person may also be determined incapacitated if he or she is under the age of majority as defined in RCW 26.28.010.

(e) For purposes of giving informed consent for health care pursuant to RCW 7.70.050 and 7.70.065, an "incompetent" person is any person who is (i) incompetent by reason of mental illness, developmental disability, senility, habitual drunkenness, excessive use of drugs, or other mental incapacity, of either managing his or her property or caring for himself or herself, or both, or (ii) incapacitated as defined in (a), (b), or (d) of this subsection.

(f) For purposes of the terms "incompetent," "disabled," or "not legally competent," as those terms are used in the Revised Code of Washington to apply to persons incapacitated under this chapter, those terms shall be interpreted to mean "incapacitated" persons for purposes of this chapter.

(2) The superior court for each county shall have power to appoint limited guardians for the persons and estates, or either thereof, of incapacitated persons, who by reason of their incapacity have need for protection and assistance, but who are capable of managing some of their personal and financial affairs. After considering all evidence presented as a result of such investigation, the court shall impose, by order, only such specific limitations and restrictions on an incapacitated person to be placed under a limited guardianship as the court finds necessary for such person's protection and assistance. A person shall not be presumed to be incapacitated nor shall a person lose any legal rights or suffer any legal disabilities as the result of being placed under a limited guardianship, except as to those rights and disabilities specifically set forth in the court order establishing such a limited guardianship. In addition, the court order shall state the period of time for which it shall be applicable.

(3) Venue for petitions for guardianship or limited guardianship shall lie in the county wherein the alleged incapacitated person is domiciled, or if such person resides in a facility supported in whole or in part by local, state, or federal funding sources, in either the county where the facility is located, the county of

domicile prior to residence in the supported facility, or the county where a parent or spouse of the alleged incapacitated person is domiciled.

If the alleged incapacitated person's residency has changed within one year of the filing of the petition, any interested person may move for a change of venue for any proceedings seeking the appointment of a guardian or a limited guardian under this chapter to the county of the alleged incapacitated person's last place of residence of one year or more. The motion shall be granted when it appears to the court that such venue would be in the best interests of the alleged incapacitated person and would promote more complete consideration of all relevant matters.

(4) Under RCW 11.94.010, a principal may nominate, by a durable power of attorney, the guardian or limited guardian of his or her estate or person for consideration by the court if guardianship proceedings for the principal's person or estate are thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification.

(5) When a court imposes a full guardianship for an incapacitated person, the person shall be considered incompetent for purposes of rationally exercising the right to vote and shall lose the right to vote, unless the court specifically finds that the person is rationally capable of exercising the franchise. Imposition of a limited guardianship for an incapacitated person shall not result in the loss of the right to vote unless the court determines that the person is incompetent for purposes of rationally exercising the franchise. When a court determines that the person is incompetent for the purpose of rationally exercising the right to vote, the court shall notify the appropriate county auditor.

NEW SECTION. Sec. 140. In developing the technical standards of data formats for transferring voter registration data, the secretary shall consult with the information services board. The board shall review and make recommendations regarding proposed technical standards prior to implementation.

PART II LOCAL GOVERNMENT GRANT PROGRAM

NEW SECTION. Sec. 201. The secretary of state shall establish a competitive local government grant program to solicit and prioritize project proposals from county election offices. Potential projects proposals must be new projects designed to help the county election office comply with the requirements of the Help America Vote Act (P.L. 107-252). Grant funds will not be allocated to fund existing statutory functions of local elections offices, and in order to be eligible for a grant, local election offices must maintain an elections budget at or above the local elections budget by the effective date of this section.

NEW SECTION. Sec. 202. The secretary of state will administer the grant program and disburse funds from the election account established in the state treasury by the legislature in chapter 48, Laws of 2003. Only grant proposals from local government election offices will be reviewed. The secretary of state and any local government grant recipient shall enter into an agreement outlining the terms of the grant and a payment schedule. The payment schedule may allow the secretary of state to make payments directly to vendors contracted by

the local government election office from Help America Vote Act (P.L. 107-252) funds. The secretary of state shall adopt any rules necessary to facilitate this section.

NEW SECTION. Sec. 203. (1) The secretary of state shall create an advisory committee and adopt rules governing project eligibility, evaluation, awarding of grants, and other criteria for administering the local government grant program, which may include a preference for grants that include a match of local funds.

(2) The advisory committee shall review grant proposals and establish a prioritized list of projects to be considered for funding by the third Tuesday in May of each year beginning in 2004 and continuing as long as funds in the election account established by chapter 48, Laws of 2003 are available. The grant award may have an effective date other than the date the project is placed on the prioritized list, including money spent previously by the county that would qualify for reimbursement under the Help America Vote Act (P.L. 107-252).

(3) Examples of projects that would be eligible for local government grant funding include, but are not limited to the following:

(a) Replacement or upgrade of voting equipment, including the replacement of punchcard voting systems;

(b) Purchase of additional voting equipment, including the purchase of equipment to meet the disability requirements of the Help America Vote Act (P.L. 107-252);

(c) Purchase of new election management system hardware and software capable of integrating with the statewide voter registration system required by the Help America Vote Act (P.L. 107-252);

(d) Development and production of poll worker recruitment and training materials;

(e) Voter education programs;

(f) Publication of a local voters pamphlet;

(g) Toll-free access system to provide notice of the outcome of provisional ballots; and

(h) Training for local election officials.

PART III DISABILITY ACCESS VOTING

NEW SECTION. Sec. 301. "Disability access voting location" means a location designated by the county auditor for the conduct of in-person disability access voting.

NEW SECTION. Sec. 302. "Disability access voting period" means the period of time starting twenty days before an election until one day before the election.

NEW SECTION. Sec. 303. "In-person disability access voting" means a procedure in which a voter may come in person to a disability access location and cast a ballot during the disability access voting period.

NEW SECTION. Sec. 304. At the discretion of the county auditor, in-person disability access voting may take place during the period starting twenty

days before the day of a primary or election and ending the day before the election. The auditor shall maintain a system or systems to prevent multiple voting. The end of the disability access voting period in each county will be determined by the auditor's need and ability to print and distribute poll books to the polls in order to prevent multiple voting.

NEW SECTION. Sec. 305. The county auditor has sole discretion for determining locations within the county and operating hours for disability access voting locations.

NEW SECTION. Sec. 306. In-person disability access voting must be conducted using disability access voting devices at locations that are acceptable and comply with federal and state access requirements.

NEW SECTION. Sec. 307. No person may interfere with a voter in any way within the disability access voting location. This does not prevent the voter from receiving assistance in preparing his or her ballot as provided in this chapter.

NEW SECTION. Sec. 308. (1) During posted disability access voting hours, no person may, within the voting location, or in any public area within three hundred feet of an entrance to the voting location:

- (a) Suggest or persuade or attempt to suggest or persuade a voter to vote for or against a candidate or ballot measure;
- (b) Circulate cards or handbills of any kind;
- (c) Solicit signatures on any kind of petition; or
- (d) Engage in a practice that interferes with the freedom of voters to exercise their franchise or disrupts the administration of the early voting location.

(2) No person may obstruct the doors or entries to a building containing the voting location or prevent free access to and from the voting location. Any sheriff, deputy sheriff, or municipal law enforcement officer shall prevent the obstruction, and may arrest a person creating such an obstruction.

(3) No person may:

(a) Except as provided in RCW 29A.44.050, remove a ballot from the disability access voting location before the closing of the polls; or

(b) Solicit a voter to show his or her ballot.

(4) No person other than a voting election official may receive from a voter a voted ballot or deliver a blank ballot to the voter.

(5) A violation of this section is a gross misdemeanor, punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021, and the person convicted may be ordered to pay the costs of prosecution.

NEW SECTION. Sec. 309. A disability access voting election officer who does any electioneering during the voting period is guilty of a misdemeanor, and upon conviction must be fined a sum not exceeding one hundred dollars and pay the costs of prosecution.

NEW SECTION. Sec. 310. A voter desiring to vote at a disability access voting site shall give his or her name to the voting election officer who has the precinct list of registered voters. This officer shall announce the name to the election officer who has the copy of the list of voters. If the right of this voter to participate in the primary or election is not challenged, the voter must be issued a

ballot or permitted to enter a voting booth and operate a voting device. The number of the ballot or the voter must be recorded by the election officers. If the right of the voter to participate is challenged, RCW 29A.08.810 and 29A.08.820 apply to that voter.

NEW SECTION. Sec. 311. Disability access voting locations must remain open continuously until the time specified in the notice of disability access voting. At the time of closing, the election officers shall announce that the disability access voting location is closed.

NEW SECTION. Sec. 312. If at the time of closing the disability access voting location, there are voters in the location who have not voted, they must be allowed to vote after the location has been closed.

NEW SECTION. Sec. 313. Immediately after the daily close of the disability access voting location and the completion of voting, the election officers shall count the number of votes cast and make a record of any discrepancy between this number and the number of voters who signed the poll book for that day, complete the certifications in the poll book, prepare the ballots for transfer to the counting center if necessary, and seal the voting devices.

NEW SECTION. Sec. 314. (1) At the direction of the county auditor, a team or teams composed of a representative of at least two major political parties shall stop at disability access voting locations and pick up the sealed containers of ballots or electronic ballot media for delivery to the counting center. This process must occur daily at the closing hour for the voting location. Two election officials, representing two major political parties, shall seal the containers furnished by the county auditor and properly identified with his or her address with uniquely prenumbered seals.

(2) At the counting center or the collection stations where the sealed ballot containers are delivered by the designated representatives of the major political parties, the county auditor or a designated representative of the county auditor shall receive the sealed ballot containers, record the time, date, voting location, and seal number of each ballot container.

Sec. 315. RCW 29A.16.010 and 2003 c 111 s 401 are each amended to read as follows:

The intent of this chapter is to require state and local election officials to designate and use polling places and disability access voting locations in all elections and permanent registration locations which are accessible to elderly and disabled persons. County auditors shall:

- (1) Make modifications such as installation of temporary ramps or relocation of polling places within buildings, where appropriate;
- (2) Designate new, accessible polling places to replace those that are inaccessible; and
- (3) Continue to use polling places and voter registration locations which are accessible to elderly and disabled persons.

Sec. 316. RCW 29A.16.130 and 2003 c 111 s 409 are each amended to read as follows:

Each state agency and entity of local government shall permit the use of any of its buildings and the most suitable locations therein as polling places or

disability access voting locations when required by a county auditor to provide accessible places in each precinct.

Sec. 317. RCW 29A.44.030 and 2003 c 111 s 1103 are each amended to read as follows:

Any voter may take into the voting booth or voting device any printed or written material to assist in casting his or her vote. The voter shall not use this material to electioneer and shall remove the material when he or she leaves the polls or the disability access voting location.

Sec. 318. RCW 29A.44.040 and 2003 c 111 s 1104 are each amended to read as follows:

No ballots may be used in any polling place or disability access voting location other than those prepared by the county auditor. No voter is entitled to vote more than once at a primary or a general or special election, except that if a voter incorrectly marks a ballot, he or she may return it and be issued a new ballot. The precinct election officers shall void the incorrectly marked ballot and return it to the county auditor.

Sec. 319. RCW 29A.44.220 and 2003 c 111 s 1121 are each amended to read as follows:

On signing the precinct list of registered voters or being issued a ballot, the voter shall, without leaving the polling place or disability access location, proceed to one of the voting booths or voting devices to cast his or her vote. When county election procedures so provide, the election officers may tear off and retain the numbered stub from the ballot before delivering the ballot to the voter. If an election officer has not already done so, when the voter has finished, he or she shall either (1) remove the numbered stub from the ballot, place the ballot in the ballot box, and return the number to the ((precinct)) election officers, or (2) deliver the entire ballot to the ((precinct)) election officers, who shall remove the numbered stub from the ballot and place the ballot in the ballot box. If poll-site ballot counting devices are used, the voter shall put the ballot in the device.

Sec. 320. RCW 29A.44.350 and 2003 c 111 s 1133 are each amended to read as follows:

If a poll-site ballot counting device fails to operate at any time during polling hours or disability access voting hours, voting must continue, and the ballots must be deposited for later tabulation in a secure ballot compartment separate from the tabulated ballots.

NEW SECTION. Sec. 321. In developing technical standards for voting technology and systems to be accessible for individuals with disabilities, the secretary shall consult with the information services board. The board shall review and make recommendations regarding proposed technical standards prior to implementation.

PART IV ADMINISTRATIVE COMPLAINT PROCEDURE

NEW SECTION. Sec. 401. The state-based administrative complaint procedures required in the Help America Vote Act (P.L. 107-252) and detailed in

administrative rule apply to all primary, general, and special elections administered under this title.

**PART V
PROVISIONAL BALLOT AFTER THE POLLS CLOSE**

NEW SECTION. Sec. 501. (1) An individual who votes in an election for federal office as a result of a federal or state court order or any other order extending the time for closing the polls, may vote in that election only by casting a provisional ballot. As to court orders extending the time for closing the polls, this section does not apply to any voters who were present in the polling place at the statutory closing time and as a result are permitted to vote under RCW 29A.44.070. This section does not, by itself, authorize any court to order that any individual be permitted to vote or to extend the time for closing the polls, but this section is intended to comply with 42 U.S.C. Sec. 15482(c) with regard to federal elections.

(2) Any ballot cast under subsection (1) of this section must be separated and held apart from other provisional ballots cast by those not affected by the order.

**PART VI
VOTING SYSTEM**

NEW SECTION. Sec. 601. As used in this chapter, "voting system" means:

(1) The total combination of mechanical, electromechanical, or electronic equipment including, but not limited to, the software, firmware, and documentation required to program, control, and support the equipment, that is used:

- (a) To define ballots;
 - (b) To cast and count votes;
 - (c) To report or display election results from the voting system;
 - (d) To maintain and produce any audit trail information; and
- (2) The practices and associated documentation used:
- (a) To identify system components and versions of such components;
 - (b) To test the system during its development and maintenance;
 - (c) To maintain records of system errors and defects;
 - (d) To determine specific system changes to be made to a system after the initial qualification of the system; and

(e) To make available any materials to the voter such as notices, instructions, forms, or paper ballots.

**PART VII
CONFORMING AMENDMENTS, REPEALERS, AND EFFECTIVE DATES**

Sec. 701. RCW 29.33.305 and 2003 c 110 s 1 are each amended to read as follows:

(1) ~~((The secretary of state shall adopt rules and establish standards for voting technology and systems used by the state or any political subdivision to~~

~~be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence, as other voters.~~

~~(2))~~ At each polling location, at least one voting unit certified by the secretary of state shall provide access to individuals who are blind or visually impaired.

~~((3))~~ (2) Compliance with this provision in regard to voting technology and systems purchased prior to July 27, 2003, shall be achieved at the time of procurement of an upgrade of technology compatible with nonvisual voting methods or replacement of existing voting equipment or systems.

~~((4))~~ (3) Compliance with subsection~~(s)~~ (2) ~~((and (3)))~~ of this section is contingent on available funds to implement this provision.

~~((5))~~ (4) For purposes of this section, the following definitions apply:

(a) "Accessible" includes receiving, using, selecting, and manipulating voter data and controls.

(b) "Nonvisual" includes synthesized speech, Braille, and other output methods.

(c) "Blind and visually impaired" excludes persons who are both deaf and blind.

~~((6))~~ (5) This section does not apply to voting by absentee ballot.

Sec. 702. RCW 29A.04.610 and 2003 c 111 s 161 are each amended to read as follows:

The secretary of state as chief election officer shall make reasonable rules in accordance with chapter 34.05 RCW not inconsistent with the federal and state election laws to effectuate any provision of this title and to facilitate the execution of its provisions in an orderly, timely, and uniform manner relating to any federal, state, county, city, town, and district elections. To that end the secretary shall assist local election officers by devising uniform forms and procedures.

In addition to the rule-making authority granted otherwise by this section, the secretary of state shall make rules governing the following provisions:

- (1) The maintenance of voter registration records;
- (2) The preparation, maintenance, distribution, review, and filing of precinct maps;
- (3) Standards for the design, layout, and production of ballots;
- (4) The examination and testing of voting systems for certification;
- (5) The source and scope of independent evaluations of voting systems that may be relied upon in certifying voting systems for use in this state;
- (6) Standards and procedures for the acceptance testing of voting systems by counties;
- (7) Standards and procedures for testing the programming of vote tallying software for specific primaries and elections;
- (8) Standards and procedures for the preparation and use of each type of certified voting system including procedures for the operation of counting centers where vote tallying systems are used;
- (9) Standards and procedures to ensure the accurate tabulation and canvassing of ballots;

(10) Consistency among the counties of the state in the preparation of ballots, the operation of vote tallying systems, and the canvassing of primaries and elections;

(11) Procedures to ensure the secrecy of a voter's ballot when a small number of ballots are counted at the polls or at a counting center;

(12) The use of substitute devices or means of voting when a voting device at the polling place is found to be defective, the counting of votes cast on the defective device, the counting of votes cast on the substitute device, and the documentation that must be submitted to the county auditor regarding such circumstances;

(13) Procedures for the transportation of sealed containers of voted ballots or sealed voting devices;

(14) The acceptance and filing of documents via electronic facsimile;

(15) Voter registration applications and records;

(16) The use of voter registration information in the conduct of elections;

(17) The coordination, delivery, and processing of voter registration records accepted by driver licensing agents or the department of licensing;

(18) The coordination, delivery, and processing of voter registration records accepted by agencies designated by the governor to provide voter registration services;

(19) Procedures to receive and distribute voter registration applications by mail;

(20) Procedures for a voter to change his or her voter registration address within a county by telephone;

(21) Procedures for a voter to change the name under which he or she is registered to vote;

(22) Procedures for canceling dual voter registration records and for maintaining records of persons whose voter registrations have been canceled;

(23) Procedures for the electronic transfer of voter registration records between county auditors and the office of the secretary of state;

(24) Procedures and forms for declarations of candidacy;

(25) Procedures and requirements for the acceptance and filing of declarations of candidacy by electronic means;

(26) Procedures for the circumstance in which two or more candidates have a name similar in sound or spelling so as to cause confusion for the voter;

(27) Filing for office;

(28) The order of positions and offices on a ballot;

(29) Sample ballots;

(30) Independent evaluations of voting systems;

(31) The testing, approval, and certification of voting systems;

(32) The testing of vote tallying software programming;

(33) Standards and procedures to prevent fraud and to facilitate the accurate processing and canvassing of absentee ballots and mail ballots;

(34) Standards and procedures to guarantee the secrecy of absentee ballots and mail ballots;

(35) Uniformity among the counties of the state in the conduct of absentee voting and mail ballot elections;

(36) Standards and procedures to accommodate out-of-state voters, overseas voters, and service voters;

- (37) The tabulation of paper ballots before the close of the polls;
- (38) The accessibility of polling places and registration facilities that are accessible to elderly and disabled persons;
- (39) The aggregation of precinct results if reporting the results of a single precinct could jeopardize the secrecy of a person's ballot;
- (40) Procedures for conducting a statutory recount;
- (41) Procedures for filling vacancies in congressional offices if the general statutory time requirements for availability of absentee ballots, certification, canvassing, and related procedures cannot be met;
- (42) Procedures for the statistical sampling of signatures for purposes of verifying and canvassing signatures on initiative, referendum, and recall election petitions;
- (43) Standards and deadlines for submitting material to the office of the secretary of state for the voters' pamphlet;
- (44) Deadlines for the filing of ballot titles for referendum bills and constitutional amendments if none have been provided by the legislature;
- (45) Procedures for the publication of a state voters' pamphlet; ~~((and))~~
- (46) Procedures for conducting special elections regarding nuclear waste sites if the general statutory time requirements for availability of absentee ballots, certification, canvassing, and related procedures cannot be met;
- (47) Standards and procedures for the proper conduct of voting during the early voting period to provide accessibility for the blind or visually impaired;
- (48) Standards for voting technology and systems used by the state or any political subdivision to be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence, as other voters;
- (49) All data formats for transferring voter registration data on electronic or machine-readable media for the purpose of administering the statewide voter registration list required by the Help America Vote Act (P.L. 107-252);
- (50) Defining the interaction of electronic voter registration election management systems employed by each county auditor to maintain a local copy of each county's portion of the official state list of registered voters;
- (51) Provisions and procedures to implement the state based administrative complaint procedure as required by the Help America Vote Act (P.L. 107-252); and
- (52) Facilitating the payment of local government grants to local government election officers or vendors.

NEW SECTION. Sec. 703. The following acts or parts of acts are each repealed:

- (1) RCW 29A.04.181 (Voting system, device, tallying system) and 2003 c 111 s 131;
- (2) RCW 29A.08.530 (Weekly report of cancellations and name changes) and 2003 c 111 s 234, 1999 c 298 s 8, 1994 c 57 s 43, 1971 ex.s. c 202 s 31, & 1965 c 9 s 29.10.100;
- (3) RCW 29A.08.645 (Electronic file format) and 2003 c 111 s 244 & 1999 c 100 s 5; and
- (4) RCW 29A.08.650 (Voter registration data base) and 2003 c 111 s 245 & 2002 c 21 s 2.

NEW SECTION. Sec. 704. RCW 29A.08.750 (Computer file of registered voters—County records to secretary of state—Reimbursement) and 2003 c 111 s 250 are each repealed.

NEW SECTION. Sec. 705. (1) Sections 101, 106, 125, 136, 137, and 140 of this act are each added to chapter 29A.08 RCW.

(2) Sections 201 through 203, 401, and 501 of this act are each added to chapter 29A.04 RCW.

(3) Sections 138 and 309 of this act are each added to chapter 29A.84 RCW.

(4) Sections 321 and 601 of this act are each added to chapter 29A.12 RCW.

NEW SECTION. Sec. 706. Sections 301 through 308 and 310 through 314 of this act constitute a new chapter in Title 29A RCW.

NEW SECTION. Sec. 707. (1) Sections 103, 104, and 115 through 118 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

(2) Sections 119, 140, 201 through 203, 321, 401, 501, and 702 of this act take effect July 1, 2004.

(3) Sections 301 through 320 of this act take effect January 1, 2005.

(4) Sections 101, 102, 105 through 114, 120 through 139, 601, 701, and 704 of this act take effect January 1, 2006.

NEW SECTION. Sec. 708. Part headings used in this act are not any part of the law.

Passed by the Senate March 8, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 268

[Senate Bill 6493]

ELECTIONS—NONCHARTER CODE CITIES

AN ACT Relating to costs of elections; amending RCW 29A.04.410 and 35A.060.050; and providing an effective date.

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

***Sec. 1. RCW 29A.04.410 and 2003 c 111 s 146 are each amended to read as follows:**

Every city, town, and district is liable for its proportionate share of the costs when such elections are held in conjunction with other elections held under RCW 29A.04.320 and 29A.04.330. The proportionate share of each city, town, and district shall not include any costs associated with the election of any statewide officer or ballot measure in even-numbered years.

Whenever any city, town, or district holds any primary or election, general or special, on an isolated date, all costs of such elections must be borne by the city, town, or district concerned.

The purpose of this section is to clearly establish that no city, town, or district is responsible for any election costs involved in electing statewide officers or ballot measures. Costs associated with the election of statewide

officers and ballot measures in even-numbered years shall be borne by the county. The county is not responsible for any costs involved in the holding of any city, town, or district election.

In recovering such election expenses, including a reasonable pro-ration of administrative costs, the county auditor shall certify the cost to the county treasurer with a copy to the clerk or auditor of the city, town, or district concerned. Upon receipt of such certification, the county treasurer shall make the transfer from any available and appropriate city, town, or district funds to the county current expense fund or to the county election reserve fund if such a fund is established. Each city, town, or district must be promptly notified by the county treasurer whenever such transfer has been completed. However, in those districts wherein a treasurer, other than the county treasurer, has been appointed such transfer procedure does not apply, but the district shall promptly issue its warrant for payment of election costs.

*Sec. 1 was vetoed. See message at end of chapter.

Sec. 2. RCW 35A.06.050 and 1994 c 223 s 29 are each amended to read as follows:

The proposal for abandonment of a plan of government as authorized in RCW 35A.06.030 and for adoption of the plan named in the resolution or petition shall be voted upon at the next general ((municipal)) election ((if one is to be held within one hundred and eighty days or otherwise at a special election called for that purpose)) in accordance with RCW ((29.13.020)) 29A.04.330. The ballot title and statement of the proposition shall be prepared by the city attorney as provided in RCW 29.27.060 and 35A.29.120.

NEW SECTION. **Sec. 3.** This act takes effect July 1, 2004.

Passed by the Senate March 9, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 31, 2004, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 31, 2004.

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

"I am returning herewith, without my approval as to section 1, Senate Bill No. 6493 entitled:

"AN ACT Relating to costs of elections;"

This bill addresses the allocation of election costs for statewide officers and ballot measures. It also provides that non-charter code cities, when making changes in their form of governance, place that decision before voters at the next general election, rather than calling a special election within 180 days.

This bill was adopted unanimously by the Legislature. However, following its delivery to me, King County and the associations that represent county officials and county governments recognized its potential impacts and requested that section 1 be vetoed.

Section 1 would have affected the sharing of election costs in even-numbered years. It would have prohibited counties from prorating any portion of the costs of statewide races or ballot measures to cities, towns, or special purpose districts. Currently, counties can distribute those costs among all jurisdictions that participate in an election.

This section would have had particularly severe effects in King County, which could have faced added costs of \$600,000 to \$700,000 in the 2004 election alone. The biggest beneficiary of the county's increased expense would have been the Regional Transportation Investment District (RTID). This is unfair because RTID received close to \$2 million in the 2003-05 operating budget

specifically for election-related costs. The cities and towns in King County also would have experienced savings, but with a cumulative total of \$270,000, these would have been relatively small for each of them.

For these reasons, I have vetoed section 1 of Senate Bill No. 6493.

With the exception of section 1, Senate Bill No. 6493 is approved."

CHAPTER 269

[Engrossed Senate Bill 6737]

LIQUOR DISTRIBUTION—PRICE POSTINGS

AN ACT Relating to distribution of liquor; amending RCW 66.28.180; and declaring an emergency.

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

Sec. 1. RCW 66.28.180 and 1997 c 321 s 51 are each amended to read as follows:

It is unlawful for a person, firm, or corporation holding a certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer distributor's license, a domestic brewer's license, a microbrewer's license, a beer importer's license, a beer distributor's license, a domestic winery license, a wine importer's license, or a wine distributor's license within the state of Washington to modify any prices without prior notification to and approval of the board.

(1) Intent. This section is enacted, pursuant to the authority of this state under the twenty-first amendment to the United States Constitution, to promote the public's interest in fostering the orderly and responsible distribution of malt beverages and wine towards effective control of consumption; to promote the fair and efficient three-tier system of distribution of such beverages; and to confirm existing board rules as the clear expression of state policy to regulate the manner of selling and pricing of wine and malt beverages by licensed suppliers and distributors.

(2) Beer and wine distributor price posting.

(a) Every beer or wine distributor shall file with the board at its office in Olympia a price posting showing the wholesale prices at which any and all brands of beer and wine sold by such beer and/or wine distributor shall be sold to retailers within the state.

(b) Each price posting shall be made on a form prepared and furnished by the board, or a reasonable facsimile thereof, and shall set forth:

(i) All brands, types, packages, and containers of beer offered for sale by such beer and/or wine distributor;

(ii) The wholesale prices thereof to retail licensees, including allowances, if any, for returned empty containers.

(c) No beer and/or wine distributor may sell or offer to sell any package or container of beer or wine to any retail licensee at a price differing from the price for such package or container as shown in the price posting filed by the beer and/or wine distributor and then in effect, according to rules adopted by the board.

(d) Quantity discounts are prohibited. No price may be posted that is below acquisition cost plus ten percent of acquisition cost. However, the board is empowered to review periodically, as it may deem appropriate, the amount of the percentage of acquisition cost as a minimum mark-up over cost and to modify

such percentage by rule of the board, except such percentage shall be not less than ten percent.

(e) Distributor prices on a "close-out" item shall be accepted by the board if the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the distributor who posts such a close-out price shall not restock the item for a period of one year following the first effective date of such close-out price.

(f) The board may reject any price posting that it deems to be in violation of this section or any rule, or portion thereof, or that would tend to disrupt the orderly sale and distribution of beer and wine. Whenever the board rejects any posting, the licensee submitting the posting may be heard by the board and shall have the burden of showing that the posting is not in violation of this section or a rule or does not tend to disrupt the orderly sale and distribution of beer and wine. If the posting is accepted, it shall become effective at the time fixed by the board. If the posting is rejected, the last effective posting shall remain in effect until such time as an amended posting is filed and approved, in accordance with the provisions of this section.

(g) Prior to the effective date of the posted prices, all price postings filed as required by this section constitute investigative information and shall ((at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential)) not be subject to disclosure, pursuant to RCW 42.17.310(1)(d).

(h) Any beer and/or wine distributor or employee authorized by the distributor-employer may sell beer and/or wine at the distributor's posted prices to any annual or special occasion retail licensee upon presentation to the distributor or employee at the time of purchase of a special permit issued by the board to such licensee.

(i) Every annual or special occasion retail licensee, upon purchasing any beer and/or wine from a distributor, shall immediately cause such beer or wine to be delivered to the licensed premises, and the licensee shall not thereafter permit such beer to be disposed of in any manner except as authorized by the license.

(ii) Beer and wine sold as provided in this section shall be delivered by the distributor or an authorized employee either to the retailer's licensed premises or directly to the retailer at the distributor's licensed premises. A distributor's prices to retail licensees shall be the same at both such places of delivery.

(3) Beer and wine suppliers' price filings, contracts, and memoranda.

(a) Every brewery and winery offering beer and/or wine for sale within the state shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such brewery or winery may have with any beer or wine distributor, which contracts or memoranda shall contain a schedule of prices charged to distributors for all items and all terms of sale, including all regular and special discounts; all advertising, sales and trade allowances, and incentive programs; and all commissions, bonuses or gifts, and any and all other discounts or allowances. Whenever changed or modified, such revised contracts or memoranda shall forthwith be filed with the board as provided for by rule. The provisions of this section also apply to certificate of approval holders, beer and/or wine importers, and beer and/or wine distributors who sell to other beer and/or wine distributors.

Each price schedule shall be made on a form prepared and furnished by the board, or a reasonable facsimile thereof, and shall set forth all brands, types, packages, and containers of beer or wine offered for sale by such licensed brewery or winery; all additional information required may be filed as a supplement to the price schedule forms.

(b) Prices filed by a brewery or winery shall be uniform prices to all distributors on a statewide basis less bona fide allowances for freight differentials. Quantity discounts are prohibited. No price shall be filed that is below acquisition/production cost plus ten percent of that cost, except that acquisition cost plus ten percent of acquisition cost does not apply to sales of beer or wine between a beer or wine importer who sells beer or wine to another beer or wine importer or to a beer or wine distributor, or to a beer or wine distributor who sells beer or wine to another beer or wine distributor. However, the board is empowered to review periodically, as it may deem appropriate, the amount of the percentage of acquisition/production cost as a minimum mark-up over cost and to modify such percentage by rule of the board, except such percentage shall be not less than ten percent.

(c) No brewery, winery, certificate of approval holder, beer or wine importer, or beer or wine distributor may sell or offer to sell any beer or wine to any persons whatsoever in this state until copies of such written contracts or memoranda of such oral agreements are on file with the board.

(d) No brewery or winery may sell or offer to sell any package or container of beer or wine to any distributor at a price differing from the price for such package or container as shown in the schedule of prices filed by the brewery or winery and then in effect, according to rules adopted by the board.

(e) The board may reject any supplier's price filing, contract, or memorandum of oral agreement, or portion thereof that it deems to be in violation of this section or any rule or that would tend to disrupt the orderly sale and distribution of beer or wine. Whenever the board rejects any such price filing, contract, or memorandum, the licensee submitting the price filing, contract, or memorandum may be heard by the board and shall have the burden of showing that the price filing, contract, or memorandum is not in violation of this section or a rule or does not tend to disrupt the orderly sale and distribution of beer or wine. If the price filing, contract, or memorandum is accepted, it shall become effective at a time fixed by the board. If the price filing, contract, or memorandum, or portion thereof, is rejected, the last effective price filing, contract, or memorandum shall remain in effect until such time as an amended price filing, contract, or memorandum is filed and approved, in accordance with the provisions of this section.

(f) Prior to the effective date of the posted prices, all prices, contracts, and memoranda filed as required by this section constitute investigative information and shall ((at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential)) not be subject to disclosure, pursuant to RCW 42.17.310(1)(d).

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

Passed by the Senate March 11, 2004.
 Passed by the House March 11, 2004.
 Approved by the Governor March 31, 2004.
 Filed in Office of Secretary of State March 31, 2004.

CHAPTER 270

[Senate Bill 5034]

PROPERTY TAX RELIEF—SENIOR CITIZENS, DISABLED PERSONS

AN ACT Relating to property tax relief for senior citizens and persons retired because of physical disability; and amending RCW 84.36.381, 84.36.383, and 84.38.030.

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

Sec. 1. RCW 84.36.381 and 1998 c 333 s 1 are each amended to read as follows:

A person shall be exempt from any legal obligation to pay all or a portion of the amount of excess and regular real property taxes due and payable in the year following the year in which a claim is filed, and thereafter, in accordance with the following:

(1) The property taxes must have been imposed upon a residence which was occupied by the person claiming the exemption as a principal place of residence as of the time of filing: PROVIDED, That any person who sells, transfers, or is displaced from his or her residence may transfer his or her exemption status to a replacement residence, but no claimant shall receive an exemption on more than one residence in any year: PROVIDED FURTHER, That confinement of the person to a hospital ~~((or))~~, nursing home, boarding home, or adult family home shall not disqualify the claim of exemption if:

(a) The residence is temporarily unoccupied;

(b) The residence is occupied by a spouse and/or a person financially dependent on the claimant for support; or

(c) The residence is rented for the purpose of paying nursing home ~~((or))~~, hospital, boarding home, or adult family home costs;

(2) The person claiming the exemption must have owned, at the time of filing, in fee, as a life estate, or by contract purchase, the residence on which the property taxes have been imposed or if the person claiming the exemption lives in a cooperative housing association, corporation, or partnership, such person must own a share therein representing the unit or portion of the structure in which he or she resides. For purposes of this subsection, a residence owned by a marital community or owned by cotenants shall be deemed to be owned by each spouse or cotenant, and any lease for life shall be deemed a life estate;

(3) The person claiming the exemption must be sixty-one years of age or older on December 31st of the year in which the exemption claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of ~~((physical))~~ disability: PROVIDED, That any surviving spouse of a person who was receiving an exemption at the time of the person's death shall qualify if the surviving spouse is fifty-seven years of age or older and otherwise meets the requirements of this section;

(4) The amount that the person shall be exempt from an obligation to pay shall be calculated on the basis of combined disposable income, as defined in RCW 84.36.383. If the person claiming the exemption was retired for two

months or more of the assessment year, the combined disposable income of such person shall be calculated by multiplying the average monthly combined disposable income of such person during the months such person was retired by twelve. If the income of the person claiming exemption is reduced for two or more months of the assessment year by reason of the death of the person's spouse, or when other substantial changes occur in disposable income that are likely to continue for an indefinite period of time, the combined disposable income of such person shall be calculated by multiplying the average monthly combined disposable income of such person after such occurrences by twelve. If it is necessary to estimate income to comply with this subsection, the assessor may require confirming documentation of such income prior to May 31 of the year following application;

(5)(a) A person who otherwise qualifies under this section and has a combined disposable income of thirty-five thousand dollars or less shall be exempt from all excess property taxes; and

(b)(i) A person who otherwise qualifies under this section and has a combined disposable income of ~~((twenty-four))~~ thirty thousand dollars or less but greater than ~~((eighteen))~~ twenty-five thousand dollars shall be exempt from all regular property taxes on the greater of ~~((forty))~~ fifty thousand dollars or thirty-five percent of the valuation of his or her residence, but not to exceed ~~((sixty))~~ seventy thousand dollars of the valuation of his or her residence; or

(ii) A person who otherwise qualifies under this section and has a combined disposable income of ~~((eighteen))~~ twenty-five thousand dollars or less shall be exempt from all regular property taxes on the greater of ~~((fifty))~~ sixty thousand dollars or sixty percent of the valuation of his or her residence; ~~((and))~~

(6) For a person who otherwise qualifies under this section and has a combined disposable income of thirty-five thousand dollars or less, the valuation of the residence shall be the assessed value of the residence on the later of January 1, 1995, or January 1st of the assessment year the person first qualifies under this section. If the person subsequently fails to qualify under this section only for one year because of high income, this same valuation shall be used upon requalification. If the person fails to qualify for more than one year in succession because of high income or fails to qualify for any other reason, the valuation upon requalification shall be the assessed value on January 1st of the assessment year in which the person requalifies. If the person transfers the exemption under this section to a different residence, the valuation of the different residence shall be the assessed value of the different residence on January 1st of the assessment year in which the person transfers the exemption.

In no event may the valuation under this subsection be greater than the true and fair value of the residence on January 1st of the assessment year.

This subsection does not apply to subsequent improvements to the property in the year in which the improvements are made. Subsequent improvements to the property shall be added to the value otherwise determined under this subsection at their true and fair value in the year in which they are made.

Sec. 2. RCW 84.36.383 and 1999 c 358 s 18 are each amended to read as follows:

As used in RCW 84.36.381 through 84.36.389, except where the context clearly indicates a different meaning:

(1) The term "residence" means a single family dwelling unit whether such unit be separate or part of a multiunit dwelling, including the land on which such dwelling stands not to exceed one acre. The term shall also include a share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides. The term shall also include a single family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the state of Washington, and notwithstanding the provisions of RCW 84.04.080 and 84.04.090, such a residence shall be deemed real property.

(2) The term "real property" shall also include a mobile home which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe, connections with sewer, water, or other utilities. A mobile home located on land leased by the owner of the mobile home is subject, for tax billing, payment, and collection purposes, only to the personal property provisions of chapter 84.56 RCW and RCW 84.60.040.

(3) "Department" means the state department of revenue.

(4) "Combined disposable income" means the disposable income of the person claiming the exemption, plus the disposable income of his or her spouse, and the disposable income of each cotenant occupying the residence for the assessment year, less amounts paid by the person claiming the exemption or his or her spouse during the assessment year for:

(a) Drugs supplied by prescription of a medical practitioner authorized by the laws of this state or another jurisdiction to issue prescriptions; ~~(and)~~

(b) The treatment or care of either person received in the home or in a nursing home, boarding home, or adult family home; and

(c) Health care insurance premiums for medicare under Title XVIII of the social security act.

(5) "Disposable income" means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, 1989, or such subsequent date as the director may provide by rule consistent with the purpose of this section, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

(a) Capital gains, other than gain excluded from income under section 121 of the federal internal revenue code to the extent it is reinvested in a new principal residence;

(b) Amounts deducted for loss;

(c) Amounts deducted for depreciation;

(d) Pension and annuity receipts;

(e) Military pay and benefits other than attendant-care and medical-aid payments;

(f) Veterans benefits other than attendant-care and medical-aid payments;

(g) Federal social security act and railroad retirement benefits;

(h) Dividend receipts; and

(i) Interest received on state and municipal bonds.

(6) "Cotenant" means a person who resides with the person claiming the exemption and who has an ownership interest in the residence.

(7) "Disability" has the same meaning as provided in 42 U.S.C. Sec. 423(d)(1)(A) as amended prior to January 1, 2004, or such subsequent date as the director may provide by rule consistent with the purpose of this section.

Sec. 3. RCW 84.38.030 and 1995 c 329 s 2 are each amended to read as follows:

A claimant may defer payment of special assessments and/or real property taxes on up to eighty percent of the amount of the claimant's equity value in the claimant's residence if the following conditions are met:

(1) The claimant must meet all requirements for an exemption for the residence under RCW 84.36.381, other than the age and income limits under RCW 84.36.381 and the parcel size limit under RCW 84.36.383.

(2) The claimant must be sixty years of age or older on December 31st of the year in which the deferral claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of physical disability: PROVIDED, That any surviving spouse of a person who was receiving a deferral at the time of the person's death shall qualify if the surviving spouse is fifty-seven years of age or older and otherwise meets the requirements of this section.

(3) The claimant must have a combined disposable income, as defined in RCW 84.36.383, of ~~((thirty-four))~~ forty thousand dollars or less.

(4) The claimant must have owned, at the time of filing, the residence on which the special assessment and/or real property taxes have been imposed. For purposes of this subsection, a residence owned by a marital community or owned by cotenants shall be deemed to be owned by each spouse or cotenant. A claimant who has only a share ownership in cooperative housing, a life estate, a lease for life, or a revocable trust does not satisfy the ownership requirement.

(5) The claimant must have and keep in force fire and casualty insurance in sufficient amount to protect the interest of the state in the claimant's equity value: PROVIDED, That if the claimant fails to keep fire and casualty insurance in force to the extent of the state's interest in the claimant's equity value, the amount deferred shall not exceed one hundred percent of the claimant's equity value in the land or lot only.

(6) In the case of special assessment deferral, the claimant must have opted for payment of such special assessments on the installment method if such method was available.

Passed by the Senate March 11, 2004.

Passed by the House March 11, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

CHAPTER 271

[Engrossed Senate Bill 6453]

PRIMARY ELECTIONS

AN ACT Relating to a qualifying primary; amending RCW 29A.04.085, 29A.04.127, 29A.04.310, 29A.20.020, 29A.20.120, 29A.20.140, 29A.20.150, 29A.20.160, 29A.20.170, 29A.20.180, 29A.20.190, 29A.24.030, 29A.24.080, 29A.24.090, 29A.24.100, 29A.24.110, 29A.24.140, 29A.24.150, 29A.24.160, 29A.24.170, 29A.24.180, 29A.24.190, 29A.24.310, 29A.28.040, 29A.28.060, 29A.32.030, 29A.36.010, 29A.36.070, 29A.36.100, 29A.36.170, 29A.36.200, 29A.52.010, 29A.52.110, 29A.52.230, 29A.52.320, 29A.52.350, 29A.60.020,

29A.60.220, 29A.64.010, 29A.64.020, 29A.64.040, 29A.64.060, 29A.64.080, 29A.68.010, 29A.80.010, 29A.84.260, 29A.84.310, 29A.84.710, and 42.17.020; reenacting and amending RCW 29A.32.120; adding new sections to chapter 29A.52 RCW; adding new sections to chapter 29A.04 RCW; adding new sections to chapter 29A.28 RCW; adding new sections to chapter 29A.08 RCW; adding a new section to chapter 29A.12 RCW; adding new sections to chapter 29A.20 RCW; adding new sections to chapter 29A.24 RCW; adding new sections to chapter 29A.32 RCW; adding new sections to chapter 29A.36 RCW; adding new sections to chapter 29A.40 RCW; adding new sections to chapter 29A.44 RCW; adding new sections to chapter 29A.60 RCW; adding new sections to chapter 29A.80 RCW; adding new sections to chapter 29A.64 RCW; adding a new section to chapter 29A.68 RCW; adding new sections to chapter 29A.84 RCW; creating new sections; repealing RCW 29A.04.157, 29A.20.110, 29A.20.130, 29A.20.200, 29A.24.200, 29A.24.210, 29A.28.010, 29A.28.020, 29A.36.190, 29A.52.130, 29A.04.903, 29A.04.007, 29A.04.085, 29A.04.127, 29A.04.215, 29A.04.310, 29A.04.320, 29A.04.610, 29A.12.100, 29A.20.020, 29A.20.120, 29A.20.140, 29A.20.150, 29A.20.160, 29A.20.170, 29A.20.180, 29A.20.190, 29A.24.030, 29A.24.080, 29A.24.090, 29A.24.100, 29A.24.110, 29A.24.130, 29A.24.140, 29A.24.150, 29A.24.160, 29A.24.170, 29A.24.180, 29A.24.190, 29A.24.310, 29A.28.040, 29A.28.060, 29A.28.070, 29A.32.030, 29A.32.120, 29A.32.240, 29A.36.010, 29A.36.070, 29A.36.100, 29A.36.110, 29A.36.120, 29A.36.130, 29A.36.140, 29A.36.150, 29A.36.160, 29A.36.170, 29A.36.200, 29A.40.060, 29A.40.090, 29A.44.200, 29A.44.220, 29A.44.230, 29A.52.010, 29A.52.110, 29A.52.120, 29A.52.230, 29A.52.310, 29A.52.320, 29A.52.350, 29A.60.020, 29A.60.220, 29A.64.010, 29A.64.020, 29A.64.040, 29A.64.060, 29A.64.080, 29A.68.010, 29A.80.010, 29A.80.040, 29A.80.050, 29A.80.060, 29A.84.260, 29A.84.310, and 29A.84.710; prescribing penalties; providing a contingent effective date; and declaring an emergency.

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

PART I - QUALIFYING PRIMARY

****NEW SECTION. Sec. 1. A new section is added to chapter 29A.52 RCW to read as follows:***

(1) This act may be known and cited as the Qualifying Primary Act.

(2) The purpose of any primary held in this state is to qualify candidates to appear on the general election ballot. Primary elections do not function as a procedure to determine the nominees of political parties. The sole purpose of allowing candidates to identify a political party preference is to provide to voters a brief description of each candidate's political philosophy, which the voters may consider when casting their votes at a primary or general election. In a primary election, each voter, regardless of party affiliation, may vote for any candidate listed on the ballot, and the two candidates who receive the most votes, also known as the top two vote getters, and who receive at least one percent of the total votes cast for that office, advance to the general election. Primary election voters are not choosing a party's nominee. A qualifying primary ensures more choice, greater participation, increased privacy, and a sense of fairness for the voters.

(3) The provisions of this title relating to primaries must be liberally construed to further the following interests:

(a) The legislature finds that the process of determining which candidates will appear on the general election ballot or be elected to office is a public process, in which all voters must be permitted to participate. The legislature further finds that it is not in the public interest to expend public funds on an election procedure that limits the rights of voters by restricting their ability to participate based on the party affiliation, if any, of the voters or the candidates, or that requires voters to publicly declare an affiliation with a political party;

(b) All qualified registered voters of the state of Washington should be permitted to participate in all meaningful stages of the process for qualifying candidates to appear on the general election ballot by voting for the candidates of their choice in the districts and jurisdictions where they are eligible to vote; and

(c) No registered voter of the state of Washington should be required to divulge to any public or private entity his or her party affiliation, if any, as a prerequisite to voting.

*Sec. 1 was vetoed. See message at end of chapter.

**NEW SECTION. Sec. 2. The rights of Washington voters are protected by its Constitution and laws and include the following fundamental rights:*

(1) The right of qualified voters to vote at all elections;

(2) The right of absolute secrecy of the vote. No voter may be required to disclose political faith or adherence in order to vote;

(3) The right to cast a vote for any candidate for each office without any limitation based on party preference or affiliation, of either the voter or the candidate.

*Sec. 2 was vetoed. See message at end of chapter.

**Sec. 3. RCW 29A.04.085 and 2003 c 111 s 115 are each amended to read as follows:*

"Major political party" means a political party (~~(of which at least one nominee for president, vice president, United States senator, or a statewide office received at least five percent of the total vote cast at the last preceding state general election in an even-numbered year. A political party qualifying as a major political party under this section retains such status until the next even-year election at which a candidate of that party does not achieve at least five percent of the vote for one of the previously specified offices. If none of these offices appear on the ballot in an even-year general election, the major party retains its status as a major party through that election))~~ identified on the declaration of candidacy of at least one candidate for statewide office who received at least five percent of the total votes cast for that office at the last primary or general election in a year that the office of governor appeared on the ballot. Once qualified, a major political party retains such status until the next primary or general election in a year that the office of governor appears on the ballot.

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

**NEW SECTION. Sec. 4. A new section is added to chapter 29A.04 RCW to read as follows:*

"Partisan office" means an office for which a candidate may identify a political philosophy under RCW 29A.24.030(3), and is limited to the following offices:

(1) United States senator and representative;

(2) All state offices except (a) judicial offices and (b) the office of superintendent of public instruction;

(3) All county offices except (a) judicial offices and (b) those offices where a county home rule charter provides otherwise.

*Sec. 4 was vetoed. See message at end of chapter.

**Sec. 5. RCW 29A.04.127 and 2003 c 111 s 122 are each amended to read as follows:*

"Primary" ((or "~~primary election~~") means a statutory qualifying procedure ((~~for nominating candidates to public office at the polls~~)) in which each registered voter eligible to vote in the district or jurisdiction is permitted to cast a vote for his or her preferred candidate for each office appearing on the ballot, without any limitation based on party preference or affiliation on the part of the voter or the candidate, with the result that not more than two candidates for each office qualify to appear on the general election ballot.

**Sec. 5 was vetoed. See message at end of chapter.*

**Sec. 6. RCW 29A.04.310 and 2003 c 111 s 143 are each amended to read as follows:*

((~~Nominating~~)) Qualifying primaries for general elections to be held in November must be held on the third Tuesday of the preceding September or on the seventh Tuesday immediately preceding such general election, whichever occurs first.

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

**Sec. 7. RCW 29A.20.020 and 2003 c 111 s 502 are each amended to read as follows:*

(1) A person filing a declaration of candidacy for an office shall, at the time of filing, be a registered voter and possess the qualifications specified by law for persons who may be elected to the office.

(2) Excluding the office of precinct committee officer or a temporary elected position such as a charter review board member or freeholder, no person may file for more than one office.

(3) The name of a candidate for an office shall not appear on a ballot for that office unless, except as provided in RCW 3.46.067 and 3.50.057, the candidate is, at the time the candidate's declaration of candidacy is filed, properly registered to vote in the geographic area represented by the office. For the purposes of this section, each geographic area in which registered voters may cast ballots for an office is represented by that office. If a person elected to an office must be ((~~nominated~~)) qualified from a district or similar division of the geographic area represented by the office, the name of a candidate for the office shall not appear on a primary ballot for that office unless the candidate is, at the time the candidate's declaration of candidacy is filed, properly registered to vote in that district or division. The officer with whom declarations of candidacy must be filed under this title shall review each such declaration filed regarding compliance with this subsection.

(4) ((~~This section does not apply to the office of a member of the United States Congress.~~)) The requirements of voter registration and residence within the geographic area of a district do not apply to candidates for congressional office. Qualifications for United States Congress are specified in the United States Constitution.

**Sec. 7 was vetoed. See message at end of chapter.*

**Sec. 8. RCW 29A.20.120 and 2003 c 111 s 506 are each amended to read as follows:*

((~~1~~) ~~Any nomination of a candidate for partisan public office by other than a major political party may be made only: (a) In a convention held not~~

~~earlier than the last Saturday in June and not later than the first Saturday in July or during any of the seven days immediately preceding the first day for filing declarations of candidacy as fixed in accordance with RCW 29A.28.040; (b) as provided by RCW 29A.60.020; or (c) as otherwise provided in this section.~~

~~(2)) Nominations of candidates for president and vice president of the United States other than by a major political party ((may)) must be made ((either at a convention conducted under subsection (1) of this section, or)) at a ((similar)) convention ((taking place)) to be held not earlier than the first Sunday in July and not later than seventy days before the general election. ((Conventions held during this time period may not nominate candidates for any public office other than president and vice president of the United States, except as provided in subsection (3) of this section.~~

~~(3) If a special filing period for a partisan office is opened under RCW 29A.24.210, candidates of minor political parties and independent candidates may file for office during that special filing period. The names of those candidates may not appear on the ballot unless they are nominated by convention held no later than five days after the close of the special filing period and a certificate of nomination is filed with the filing officer no later than three days after the convention. The requirements of RCW 29A.20.130 do not apply to such a convention. If primary ballots or a voters' pamphlet are ordered to be printed before the deadline for submitting the certificate of nomination and the certificate has not been filed, then the candidate's name will be included but may not appear on the general election ballot unless the certificate is timely filed and the candidate otherwise qualifies to appear on that ballot.~~

~~(4) A minor political party may hold more than one convention but in no case shall any such party nominate more than one candidate for any one partisan public office or position. For the purpose of nominating candidates for the offices of president and vice president, United States senator, or a statewide office, a minor party or independent candidate holding multiple conventions may add together the number of signatures of different individuals from each convention obtained in support of the candidate or candidates in order to obtain the number required by RCW 29A.20.140. For all other offices for which nominations are made, signatures of the requisite number of registered voters must be obtained at a single convention.))~~

*Sec. 8 was vetoed. See message at end of chapter.

*Sec. 9. RCW 29A.20.140 and 2003 c 111 s 508 are each amended to read as follows:

~~((1) To be valid, a convention must be attended by at least twenty five registered voters.~~

~~(2)) In order to nominate candidates for the offices of president and vice president of the United States, ((United States senator, or any statewide office,)) a nominating convention shall obtain and submit to the filing officer the signatures of at least two hundred registered voters of the state of Washington. ((In order to nominate candidates for any other office, a nominating convention shall obtain and submit to the filing officer the signatures of twenty five persons who are registered to vote in the jurisdiction of the office for which the nominations are made.))~~

*Sec. 9 was vetoed. See message at end of chapter.

**Sec. 10. RCW 29A.20.150 and 2003 c 111 s 509 are each amended to read as follows:*

A nominating petition submitted under this chapter shall clearly identify the name of the minor party or independent candidate (~~(convention as it appears on the certificate of nomination as required by RCW 29A.20.160(3)).~~). The petition shall also contain a statement that the person signing the petition is a registered voter of the state of Washington and shall have a space for the voter to sign his or her name and to print his or her name and address. (~~(No person may sign more than one nominating petition under this chapter for an office for a primary or election.)~~) The nominating petition must be submitted to the secretary of state not later than ten days after adjournment of the convention.

*Sec. 10 was vetoed. See message at end of chapter.

**Sec. 11. RCW 29A.20.160 and 2003 c 111 s 510 are each amended to read as follows:*

A certificate evidencing nominations of candidates for the offices of president and vice president made at a convention must:

- (1) Be in writing;*
- (2) Contain the name of each person nominated(~~(his or her residence, and the office for which he or she is named, and if the nomination is))~~ for the offices of president and vice president of the United States, their addresses, and a sworn statement from both nominees giving their consent to the nomination;*
- (3) Identify the minor political party or the independent candidate on whose behalf the convention was held;*
- (4) Be verified by the oath of the presiding officer and secretary;*
- (5) Be accompanied by a nominating petition or petitions bearing the signatures and addresses of registered voters equal in number to that required by RCW 29A.20.140;*
- (6) Contain proof of publication of the notice of calling the convention; and*
- (7) Be submitted to the (~~(appropriate filing officer))~~ secretary of state not later than one week following the adjournment of the convention at which the nominations were made. (~~(If the nominations are made only for offices whose jurisdiction is entirely within one county, the certificate and nominating petitions must be filed with the county auditor. If a minor party or independent candidate convention nominates any candidates for offices whose jurisdiction encompasses more than one county, all nominating petitions and the convention certificates must be filed with the secretary of state.))~~)*

*Sec. 11 was vetoed. See message at end of chapter.

**Sec. 12. RCW 29A.20.170 and 2003 c 111 s 511 are each amended to read as follows:*

- (1) If two or more valid certificates of nomination are filed purporting to nominate different candidates for (~~(the same position))~~ president and vice president using the same party name, the filing officer must give effect to both certificates. If conflicting claims to the party name are not resolved either by mutual agreement or by a judicial determination of the right to the name, the candidates must be treated as independent candidates. Disputes over the right*

to the name must not be permitted to delay the printing of either ballots or a voters' pamphlet. ~~((Other candidates nominated by the same conventions may continue to use the partisan affiliation unless a court of competent jurisdiction directs otherwise.))~~

(2) A person affected may petition the superior court of the county in which the filing officer is located for a judicial determination of the right to the name of a minor political party, either before or after documents are filed with the filing officer. The court shall resolve the conflict between competing claims to the use of the same party name according to the following principles: (a) The prior established public use of the name during previous elections by a party composed of or led by the same individuals or individuals in documented succession; (b) prior established public use of the name earlier in the same election cycle; (c) ~~((the nomination of a more complete slate of candidates for a number of offices or in a number of different regions of the state; (d)))~~ documented affiliation with a national or statewide party organization with an established use of the name; ~~((e))~~ (d) the first date of filing of a certificate of nomination; and ~~((f))~~ (e) such other indicia of an established right to use of the name as the court may deem relevant. ~~((If more than one filing officer is involved, and one of them is the secretary of state, the petition must be filed in the superior court for Thurston county.))~~ Upon resolving the conflict between competing claims, the court may also address any ballot designation for the candidate who does not prevail.

*Sec. 12 was vetoed. See message at end of chapter.

*Sec. 13. RCW 29A.20.180 and 2003 c 111 s 512 are each amended to read as follows:

A minor political party or independent candidate convention nominating candidates for the offices of president and vice president of the United States shall, not later than ten days after the adjournment of the convention, submit a list of presidential electors to the office of the secretary of state. The list shall contain the names and the mailing addresses of the persons selected and shall be verified by the ~~((presiding officer of the convention))~~ candidates named on the nominating petition.

*Sec. 13 was vetoed. See message at end of chapter.

*Sec. 14. RCW 29A.20.190 and 2003 c 111 s 513 are each amended to read as follows:

Upon the receipt of the ~~((certificate of nomination))~~ nominating petition, the ~~((officer with whom it is filed shall check the certificate and))~~ secretary of state shall canvass the signatures ~~((on the accompanying nominating petitions to determine if the requirements of RCW 29A.20.140 have been met)).~~ Once the determination of the sufficiency of the petitions has been made, the filing officer shall notify the ~~((presiding officer of the convention))~~ candidates and any other persons requesting the notification ~~((, of his or her decision regarding the sufficiency of the certificate or the nominating petitions)).~~ Any appeal regarding the filing officer's determination must be filed with the superior court of the county in which the certificate or petitions were filed not later than five days from the date the determination is made, and shall be heard and finally disposed of by the court within five days of the filing. Nominating petitions shall not be available for public inspection or copying.

*Sec. 14 was vetoed. See message at end of chapter.

**Sec. 15. RCW 29A.24.030 and 2003 c 111 s 603 are each amended to read as follows:*

A candidate who desires to have his or her name printed on the ballot for election to an office other than president of the United States, vice president of the United States, or an office for which ownership of property is a prerequisite to voting shall complete and file a declaration of candidacy. The secretary of state shall adopt, by rule, a declaration of candidacy form for the office of precinct committee officer and a separate standard form for candidates for all other offices filing under this chapter. Included on the standard form shall be:

(1) A place for the candidate to declare that he or she is a registered voter within the jurisdiction of the office for which he or she is filing, and the address at which he or she is registered;

(2) A place for the candidate to indicate the position for which he or she is filing;

(3) For those offices defined in section 4 of this act only, a place for the candidate to ((indicate a party designation, if applicable)) identify a major or minor political party, if any, the candidate regards as best approximating his or her own political philosophy. No candidate may list more than one political party. Nothing in this indication of political philosophy may be construed as denoting an endorsement or nomination by that party. The sole purpose of allowing candidates to identify a political party preference is to provide to voters a brief description of each candidate's political philosophy, which the voters may consider when casting their votes at a primary or general election;

(4) A place for the candidate to indicate the amount of the filing fee accompanying the declaration of candidacy or for the candidate to indicate that he or she is filing a (~~nominating~~) petition in lieu of the filing fee under RCW 29A.24.090;

(5) A place for the candidate to sign the declaration of candidacy, stating that the information provided on the form is true and swearing or affirming that he or she will support the Constitution and laws of the United States and the Constitution and laws of the state of Washington.

In the case of a declaration of candidacy filed electronically, submission of the form constitutes agreement that the information provided with the filing is true, that he or she will support the Constitutions and laws of the United States and the state of Washington, and that he or she agrees to electronic payment of the filing fee established in RCW 29A.24.090.

The secretary of state may require any other information on the form he or she deems appropriate to facilitate the filing process.

**Sec. 15 was vetoed. See message at end of chapter.*

**Sec. 16. RCW 29A.24.080 and 2003 c 111 s 608 are each amended to read as follows:*

Any candidate may mail his or her declaration of candidacy for an office to the filing officer. Such declarations of candidacy shall be processed by the filing officer in the following manner:

(1) Any declaration received by the filing officer by mail before the tenth business day immediately preceding the first day for candidates to file for office shall be returned to the candidate submitting it, together with a notification that the declaration of candidacy was received too early to be

processed. The candidate shall then be permitted to resubmit his or her declaration of candidacy during the filing period.

(2) Any properly executed declaration of candidacy received by mail on or after the tenth business day immediately preceding the first day for candidates to file for office and before the close of business on the last day of the filing period shall be included with filings made in person during the filing period. In primaries for partisan office and judicial ~~((elections))~~ offices the filing officer shall determine by lot the order in which the names of those candidates shall appear upon sample and absentee primary ballots.

(3) Any declaration of candidacy received by the filing officer after the close of business on the last day for candidates to file for office shall be rejected and returned to the candidate attempting to file it.

*Sec. 16 was vetoed. See message at end of chapter.

*Sec. 17. RCW 29A.24.090 and 2003 c 111 s 609 are each amended to read as follows:

A filing fee of one dollar shall accompany each declaration of candidacy for precinct committee officer; a filing fee of ten dollars shall accompany the declaration of candidacy for any office with a fixed annual salary of one thousand dollars or less; a filing fee equal to one percent of the annual salary of the office at the time of filing shall accompany the declaration of candidacy for any office with a fixed annual salary of more than one thousand dollars per annum. No filing fee need accompany a declaration of candidacy for any office for which compensation is on a per diem or per meeting attended basis.

A candidate who lacks sufficient assets or income at the time of filing to pay the filing fee required by this section shall submit with his or her declaration of candidacy a ~~((nominating))~~ filing petition. The petition shall contain not less than a number of signatures of registered voters equal to the number of dollars of the filing fee. The signatures shall be of voters registered to vote within the jurisdiction of the office for which the candidate is filing.

When the candidacy is for:

(1) A legislative or judicial office that includes territory from more than one county, the fee shall be paid to the secretary of state for equal division between the treasuries of the counties comprising the district.

(2) A city or town office, the fee shall be paid to the county auditor who shall transmit it to the city or town clerk for deposit in the city or town treasury.

*Sec. 17 was vetoed. See message at end of chapter.

*Sec. 18. RCW 29A.24.100 and 2003 c 111 s 610 are each amended to read as follows:

The ~~((nominating))~~ filing petition authorized by RCW 29A.24.090 shall be printed on sheets of uniform color and size, shall contain no more than twenty numbered lines, and must be in substantially the following form:

The warning prescribed by RCW 29A.72.140; followed by:

We, the undersigned registered voters of . . . (the state of Washington or the political subdivision for which the ~~((nomination))~~ filing is made). . ., hereby petition that the name of . . . (candidate's name). . . be printed on the official primary ballot for the office of . . . (insert name of office). . .

If the candidate listed a political party on the declaration of candidacy, then the name of that party must appear on the filing petition.

The petition must include a place for each individual to sign and print his or her name, and the address, city, and county at which he or she is registered to vote.

*Sec. 18 was vetoed. See message at end of chapter.

*Sec. 19. RCW 29A.24.110 and 2003 c 111 s 611 are each amended to read as follows:

~~((Nominating))~~ *Petitions may be rejected for the following reasons:*

- (1) The petition is not in the proper form;*
- (2) The petition clearly bears insufficient signatures;*
- (3) The petition is not accompanied by a declaration of candidacy;*
- (4) The time within which the petition and the declaration of candidacy could have been filed has expired.*

If the petition is accepted, the officer with whom it is filed shall canvass the signatures contained on it and shall reject the signatures of those persons who are not registered voters and the signatures of those persons who are not registered to vote within the jurisdiction of the office for which the ~~((nominating))~~ petition is filed. He or she shall additionally reject any signature that appears on the ~~((nominating))~~ petitions of two or more candidates for the same office and shall also reject, each time it appears, the name of any person who signs the same petition more than once.

If the officer with whom the petition is filed refuses to accept the petition or refuses to certify the petition as bearing sufficient valid signatures, the person filing the petition may appeal that action to the superior court. The application for judicial review shall take precedence over other cases and matters and shall be speedily heard and determined.

*Sec. 19 was vetoed. See message at end of chapter.

*Sec. 20. RCW 29A.24.140 and 2003 e 111 s 614 are each amended to read as follows:

A void in candidacy for ~~((a nonpartisan))~~ an office occurs when an election for such office, except for the short term, has been scheduled and no valid declaration of candidacy has been filed for the position or all persons filing such valid declarations of candidacy have died or been disqualified.

*Sec. 20 was vetoed. See message at end of chapter.

*Sec. 21. RCW 29A.24.150 and 2003 c 111 s 615 are each amended to read as follows:

The election officer with whom declarations of candidacy are filed shall give notice of a void in candidacy for ~~((a nonpartisan))~~ an office~~((s))~~ by notifying press, radio, and television in the county or counties involved and by such other means as may now or hereafter be provided by law. The notice shall state the office, and the time and place for filing declarations of candidacy.

*Sec. 21 was vetoed. See message at end of chapter.

*Sec. 22. RCW 29A.24.160 and 2003 c 111 s 616 are each amended to read as follows:

Filings to fill a void in candidacy for ~~((nonpartisan))~~ an office must be made in the same manner and with the same official as required during the

regular filing period for such office(~~(, except that nominating signature petitions that may be required of candidates filing for certain district offices during the normal filing period may not be required of candidates filing during the special three day filing period).~~)

*Sec. 22 was vetoed. See message at end of chapter.

**Sec. 23. RCW 29A.24.170 and 2003 c 111 s 617 are each amended to read as follows:*

Filings for (~~(a nonpartisan)~~) an office shall be reopened for a period of three normal business days, such three day period to be fixed by the election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county or counties and by such other means as may now or hereafter be provided by law whenever before the sixth Tuesday prior to a primary:

(1) A void in candidacy occurs;

(2) A vacancy occurs in (~~(any nonpartisan)~~) an office leaving an unexpired term to be filled by an election for which filings have not been held; or

(3) A (~~(nominee)~~) candidate for judge of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified.

Candidacies validly filed within said three-day period shall appear on the ballot as if made during the earlier filing period.

*Sec. 23 was vetoed. See message at end of chapter.

**Sec. 24. RCW 29A.24.180 and 2003 c 111 s 618 are each amended to read as follows:*

Filings for a nonpartisan office (other than judge of the supreme court or superintendent of public instruction) shall be reopened for a period of three normal business days, such three day period to be fixed by the election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law, when:

(1) A void in candidacy for such nonpartisan office occurs on or after the sixth Tuesday prior to a primary but prior to the sixth Tuesday before an election; or

(2) A (~~(nominee)~~) candidate for judge of the superior court eligible after a contested primary for a certificate of election by Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified within the ten day period immediately following the last day allotted for a candidate to withdraw; or

(3) A vacancy occurs in any nonpartisan office on or after the sixth Tuesday prior to a primary but prior to the sixth Tuesday before an election leaving an unexpired term to be filled by an election for which filings have not been held.

The candidate receiving a plurality of the votes cast for that office in the general election shall be deemed elected.

*Sec. 24 was vetoed. See message at end of chapter.

**Sec. 25. RCW 29A.24.190 and 2003 c 111 s 619 are each amended to read as follows:*

A scheduled election (~~(shall be lapsed)~~) lapses, the office is deemed stricken from the ballot, no purported write-in votes may be counted, and no candidate may be certified as elected, when:

(1) In an election for judge of the supreme court (~~(or)~~), superintendent of public instruction, or a partisan office, a void in candidacy occurs on or after the sixth Tuesday prior to a primary, public filings and the primary being an indispensable phase of the election process for such offices;

(2) Except as otherwise specified in RCW 29A.24.180, a (~~(nominee)~~) candidate for judge of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution dies or is disqualified on or after the sixth Tuesday prior to a primary;

(3) In other elections for nonpartisan office a void in candidacy occurs or a vacancy occurs involving an unexpired term to be filled on or after the sixth Tuesday prior to an election.

*Sec. 25 was vetoed. See message at end of chapter.

*Sec. 26. RCW 29A.24.310 and 2003 c 111 s 622 are each amended to read as follows:

Any person who desires to be a write-in candidate and have such votes counted at a primary or election may file a declaration of candidacy with the officer designated in RCW 29A.24.070 not later than the day before the primary or election. Declarations of candidacy for write-in candidates must be accompanied by a filing fee in the same manner as required of other candidates filing for the office as provided in RCW 29A.24.090.

Votes cast for write-in candidates who have filed such declarations of candidacy (~~(and write-in votes for persons appointed by political parties pursuant to RCW 29A.28.020)~~) need only specify the name of the candidate in the appropriate location on the ballot in order to be counted. Write-in votes cast for any other candidate, in order to be counted, must designate the office sought and position number (~~(or political party)~~), in the manner in which the write-in is done does not make the office or position clear. In order for write-in votes to be valid in jurisdictions employing optical-scan mark sense ballot systems the voter must complete the proper mark next to the write-in line for that office.

No person may file as a write-in candidate where:

(1) At a general election, the person attempting to file either filed as a write-in candidate for the same office at the preceding primary or the person's name appeared on the ballot for the same office at the preceding primary;

(2) The person attempting to file as a write-in candidate has already filed a valid write-in declaration for that primary or election, unless one or the other of the two filings is for the office of precinct committeeperson;

(3) The name of the person attempting to file already appears on the ballot as a candidate for another office, unless one of the two offices for which he or she is a candidate is precinct committeeperson.

The declaration of candidacy shall be similar to that required by RCW 29A.24.030. No write-in candidate filing under this section may be included in any voter's pamphlet produced under chapter 29A.32 RCW unless that candidate qualifies to have his or her name printed on the general election ballot. The legislative authority of any jurisdiction producing a local voter's

pamphlet under chapter 29A.32 RCW may provide, by ordinance, for the inclusion of write-in candidates in such pamphlets.

**Sec. 26 was vetoed. See message at end of chapter.*

**NEW SECTION. Sec. 27. A new section is added to chapter 29A.28 RCW to read as follows:*

If the death or disqualification of a candidate for a partisan or nonpartisan office does not give rise to the opening of a new filing period under RCW 29A.24.170, then the following will occur:

(1) If the candidate dies or becomes disqualified after filing a declaration of candidacy but before the close of the filing period, then the declaration of candidacy is void and his or her name will not appear on the ballot;

(2) If the candidate dies or becomes disqualified after the close of the filing period but before the day of the primary, then his or her name will appear on the primary ballot and all otherwise valid votes for that candidate will be tabulated. The candidate's name will not appear on the general election ballot even if he or she otherwise would have qualified to do so, but no other candidate will advance, or be substituted, in the place of that candidate. If the candidate was the only candidate to qualify to advance to the general election, then the general election for that office lapses, and the office will be regarded as vacant as of the time the newly elected official would have otherwise taken office;

(3) If the candidate dies or becomes disqualified on or after the day of the primary, and he or she would have otherwise qualified to appear on the general election ballot, then his or her name will appear on the general election ballot and all otherwise valid votes for that candidate will be tabulated. If the candidate received a number of votes sufficient to be elected to office, but for his or her death or disqualification, then the office will be regarded as vacant as of the time the newly elected official would have otherwise taken office.

**Sec. 27 was vetoed. See message at end of chapter.*

**Sec. 28. RCW 29A.28.040 and 2003 c 111 s 704 are each amended to read as follows:*

(1) Whenever a vacancy occurs in the United States house of representatives or the United States senate from this state, the governor shall order a special election to fill the vacancy.

(2) Within ten days of such vacancy occurring, he or she shall issue a writ of election fixing a date for the special vacancy election not less than ninety days after the issuance of the writ, fixing a date for the primary for (~~nominating~~) qualifying candidates for the special vacancy election not less than thirty days before the day fixed for holding the special vacancy election, fixing the dates for the special filing period, and designating the term or part of the term for which the vacancy exists. If the vacancy is in the office of United States representative, the writ of election shall specify the congressional district that is vacant.

(3) If the vacancy occurs less than six months before a state general election and before the second Friday following the close of the filing period for that general election, the special primary and special vacancy elections shall be held in concert with the state primary and state general election in that year.

(4) If the vacancy occurs on or after the first day for filing under RCW 29A.24.050 and on or before the second Friday following the close of the filing period, a special filing period of three normal business days shall be fixed by the governor and notice thereof given to all media, including press, radio, and television within the area in which the vacancy election is to be held, to the end that, insofar as possible, all interested persons will be aware of such filing period. The last day of the filing period shall not be later than the third Tuesday before the primary (~~(at which candidates are to be nominated)~~). The names of candidates who have filed valid declarations of candidacy during this three-day period shall appear on the approaching primary ballot.

(5) If the vacancy occurs later than the second Friday following the close of the filing period, a special primary and special vacancy election to fill the position shall be held after the next state general election but, in any event, no later than the ninetieth day following the November election.

**Sec. 28 was vetoed. See message at end of chapter.*

**Sec. 29. RCW 29A.28.060 and 2003 c 111 s 706 are each amended to read as follows:*

The general election laws and laws relating to (~~(partisan)~~) primaries (~~(shall)~~) for partisan offices apply to the special primaries and vacancy elections provided for in RCW 29A.28.040 through 29A.28.050 to the extent that they are not inconsistent with the provisions of these sections. Statutory time deadlines relating to availability of absentee ballots, certification, canvassing, and related procedures that cannot be met in a timely fashion may be modified for the purposes of a specific primary or vacancy election under this chapter by the secretary of state through emergency rules adopted under RCW 29A.04.610.

**Sec. 29 was vetoed. See message at end of chapter.*

**Sec. 30. RCW 29A.32.030 and 2003 c 111 s 803 are each amended to read as follows:*

The voters' pamphlet must contain:

(1) Information about each ballot measure initiated by or referred to the voters for their approval or rejection as required by RCW 29A.32.070;

(2) In even-numbered years, statements, if submitted, advocating the candidacies of (~~(nominees)~~) candidates qualified to appear on the ballot for the office of president and vice president of the United States, United States senator, United States representative, governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, commissioner of public lands, superintendent of public instruction, insurance commissioner, state senator, state representative, justice of the supreme court, judge of the court of appeals, or judge of the superior court. Candidates may also submit a campaign mailing address and telephone number and a photograph not more than five years old and of a size and quality that the secretary of state determines to be suitable for reproduction in the voters' pamphlet;

(3) In odd-numbered years, if any office voted upon statewide appears on the ballot due to a vacancy, then statements and photographs for candidates for any vacant office listed in subsection (2) of this section must appear;

(4) In even-numbered years, a section explaining how voters may participate in the election campaign process; the address and telephone number of the public disclosure commission established under RCW

42.17.350; and a summary of the disclosure requirements that apply when contributions are made to candidates and political committees;

(5) In even-numbered years the name, address, and telephone number of each political party ((with nominees listed in the pamphlet, if filed with the secretary of state by the state committee of a major political party or the presiding officer of the convention of a minor political party)) for which a candidate appearing on the ballot has expressed a preference on his or her declaration of candidacy, if the party has provided that information to the secretary of state;

(6) In each odd-numbered year immediately before a year in which a president of the United States is to be nominated and elected, information explaining the precinct caucus and convention process used by each major political party to elect delegates to its national presidential candidate nominating convention. The pamphlet must also provide a description of the statutory procedures by which minor political parties are formed and the statutory methods used by the parties to nominate candidates for president;

(7) In even-numbered years, a description of the office of precinct committee officer and its duties;

(8) An application form for an absentee ballot;

(9) A brief statement explaining the deletion and addition of language for proposed measures under RCW 29A.32.080;

(10) Any additional information pertaining to elections as may be required by law or in the judgment of the secretary of state is deemed informative to the voters.

*Sec. 30 was vetoed. See message at end of chapter.

*Sec. 31. RCW 29A.32.120 and 2003 c 254 s 6 and 2003 c 111 s 812 are each reenacted and amended to read as follows:

(1) The maximum number of words for statements submitted by candidates is as follows: State representative, one hundred words; state senator, judge of the superior court, judge of the court of appeals, justice of the supreme court, and all state offices voted upon throughout the state, except that of governor, two hundred words; president and vice president, United States senator, United States representative, and governor, three hundred words.

(2) Arguments written by committees under RCW 29A.32.060 may not exceed two hundred fifty words in length.

(3) Rebuttal arguments written by committees may not exceed seventy-five words in length.

(4) The secretary of state shall allocate space in the pamphlet based on the number of candidates ((~~or nominees~~)) for each office.

*Sec. 31 was vetoed. See message at end of chapter.

*Sec. 32. RCW 29A.36.010 and 2003 c 111 s 901 are each amended to read as follows:

On or before the day following the last day allowed for ((political parties to fill vacancies in the ticket as provided by RCW 29A.28.010)) candidates to withdraw under RCW 29A.24.130, the secretary of state shall certify to each county auditor a list of the candidates who have filed declarations of candidacy in his or her office for the primary. For each office, the certificate

shall include the name of each candidate, his or her address, and his or her party (~~(designation)~~) preference, if any.

*Sec. 32 was vetoed. See message at end of chapter.

**Sec. 33. RCW 29A.36.070 and 2003 c 111 s 907 are each amended to read as follows:*

(1) Except as provided to the contrary in RCW 82.14.036, 82.46.021, or 82.80.090, the ballot title of any referendum filed on an enactment or portion of an enactment of a local government and any other question submitted to the voters of a local government consists of three elements: (a) An identification of the enacting legislative body and a statement of the subject matter; (b) a concise description of the measure; and (c) a question. The ballot title must conform with the requirements and be displayed substantially as provided under RCW 29A.72.050, except that the concise description must not exceed seventy-five words. If the local governmental unit is a city or a town, the concise statement shall be prepared by the city or town attorney. If the local governmental unit is a county, the concise statement shall be prepared by the prosecuting attorney of the county. If the unit is a unit of local government other than a city, town, or county, the concise statement shall be prepared by the prosecuting attorney of the county within which the majority area of the unit is located.

(2) A referendum measure on the enactment of a unit of local government shall be advertised in the manner provided for (~~(nominees)~~) candidates for elective office.

(3) Subsection (1) of this section does not apply if another provision of law specifies the ballot title for a specific type of ballot question or proposition.

*Sec. 33 was vetoed. See message at end of chapter.

**Sec. 34. RCW 29A.36.100 and 2003 c 111 s 910 are each amended to read as follows:*

Except for the candidates for the positions of president and vice president or for a partisan or nonpartisan office for which no primary is required, the names of all candidates who, under this title, filed a declaration of candidacy(~~(, were certified as a candidate to fill a vacancy on a major party ticket, or were nominated as an independent or minor party candidate)~~) will appear on the appropriate ballot at the primary throughout the jurisdiction (~~(in which they are to be nominated)~~) of the office for which they are a candidate.

*Sec. 34 was vetoed. See message at end of chapter.

**Sec. 35. RCW 29A.36.170 and 2003 c 111 s 917 are each amended to read as follows:*

(1) Except as provided in RCW 29A.36.180 and in subsection (2) of this section, on the ballot at the general election for (~~(a nonpartisan)~~) an office for which a primary was held, only the names of the candidate who received the greatest number of votes and the candidate who received the next greatest number of votes for that office shall appear under the title of that office, and the names shall appear in that order. If a primary was conducted, no candidate's name may be printed on the subsequent general election ballot unless he or she receives at least one percent of the total votes cast for that office at the preceding primary. On the ballot at the general election for (~~(any~~

~~other nonpartisan~~) an office for which no primary was held, the names of the candidates shall be listed in the order determined under RCW 29A.36.130.

(2) On the ballot at the general election for the office of justice of the supreme court, judge of the court of appeals, judge of the superior court, or state superintendent of public instruction, if a candidate in a contested primary receives a majority of all the votes cast for that office or position, only the name of that candidate may be printed under the title of the office for that position.

*Sec. 35 was vetoed. See message at end of chapter.

*Sec. 36. RCW 29A.36.200 and 2003 c 111 s 920 are each amended to read as follows:

The names of the persons certified (~~(as nominees)~~) by the secretary of state or the county canvassing board as having qualified to appear on the general election ballot shall be printed on the ballot at the ensuing election.

No name of any candidate (~~(whose nomination at a primary is required by law shall)~~) for an office for which a primary is conducted may be placed upon the ballot at a general or special election unless it appears upon the certificate of either (1) the secretary of state(;) or (2) the county canvassing board((, or (3) a minor party convention or the state or county central committee of a major political party to fill a vacancy on its ticket under RCW 29A.28.020).

Excluding the office of precinct committee officer or a temporary elected position such as a charter review board member or freeholder, a candidate's name shall not appear more than once upon a ballot for a position regularly (~~(nominated or)~~) elected at the same election.

*Sec. 36 was vetoed. See message at end of chapter.

*Sec. 37. RCW 29A.52.010 and 2003 c 111 s 1301 are each amended to read as follows:

Whenever it shall be necessary to hold a special election in an odd-numbered year to fill an unexpired term of any office which is scheduled to be voted upon for a full term in an even-numbered year, no (~~(September)~~) primary election shall be held in the odd-numbered year if, after the last day allowed for candidates to withdraw(~~(, either of the following circumstances exist:~~

(1) ~~No more than one candidate of each qualified political party has filed a declaration of candidacy for the same partisan office to be filled; or~~

(2) no more than two candidates have filed a declaration of candidacy for a single (~~(nonpartisan)~~) office to be filled.

In (~~(either)~~) this event, the officer with whom the declarations of candidacy were filed shall immediately notify all candidates concerned and the names of the candidates that would have been printed upon the (~~(September)~~) primary ballot, but for the provisions of this section, shall be printed as (~~(nominees)~~) candidates for the positions sought upon the (~~(November)~~) general election ballot.

*Sec. 37 was vetoed. See message at end of chapter.

*Sec. 38. RCW 29A.52.110 and 2003 c 111 s 1302 are each amended to read as follows:

Candidates for ~~((the following offices shall be nominated at))~~ partisan offices will appear on the ballot at primaries held ~~((pursuant to the provisions of))~~ under this chapter~~(+)~~

~~(1) Congressional offices;~~

~~(2) All state offices except (a) judicial offices and (b) the office of superintendent of public instruction;~~

~~(3) All county offices except (a) judicial offices and (b) those offices where a county home rule charter provides otherwise).~~

*Sec. 38 was vetoed. See message at end of chapter.

**NEW SECTION. Sec. 39. A new section is added to chapter 29A.52 RCW to read as follows:*

(1) Whenever candidates for partisan office are to be elected, the general election must be preceded by a primary conducted under this chapter, except as otherwise provided in law. Based upon votes cast at the primary, two candidates must be certified as qualified to appear on the general election ballot, under RCW 29A.52.320 and 29A.36.170.

(2) A primary may not be used to select the nominees of a political party. A primary is a critical stage in the public process by which voters elect candidates to public office.

(3) If a candidate indicates a political philosophy as provided by RCW 29A.24.030(3) on his or her declaration of candidacy, then the philosophy will be listed for the candidate on the primary and general election ballots. Each candidate who does not express a philosophy will be listed as an independent candidate on the primary and general election ballots. Political philosophy will be listed for the information of the voters only, and may not be used for any purpose relating to the conduct, canvassing, or certification of the primary, and may in no way limit the options available to voters in deciding for whom to cast a vote.

*Sec. 39 was vetoed. See message at end of chapter.

**Sec. 40. RCW 29A.52.230 and 2003 c III s 1307 are each amended to read as follows:*

The offices of superintendent of public instruction, justice of the supreme court, judge of the court of appeals, judge of the superior court, and judge of the district court shall be nonpartisan and the candidates therefor shall be ~~((nominated))~~ qualified and elected as such.

All city, town, and special purpose district elective offices shall be nonpartisan and the candidates therefor shall be ~~((nominated))~~ qualified and elected as such.

*Sec. 40 was vetoed. See message at end of chapter.

**Sec. 41. RCW 29A.52.320 and 2003 c III s 1310 are each amended to read as follows:*

No later than the day following the certification of the returns of any primary, the secretary of state shall certify to the appropriate county auditors, the names of all persons ~~((nominated))~~ qualified to appear on the general election ballot as candidates for offices, the returns of which have been canvassed by the secretary of state.

*Sec. 41 was vetoed. See message at end of chapter.

**Sec. 42. RCW 29A.52.350 and 2003 c 111 s 1313 are each amended to read as follows:*

Except as provided in RCW 29A.32.260, notice for any state, county, district, or municipal election, whether special or general, must be given by at least one publication not more than ten nor less than three days before the election by the county auditor or the officer conducting the election as the case may be, in one or more newspapers of general circulation within the county. The legal notice must contain the title of each office under the proper party (~~(designation)~~) preference, the names and addresses of all (~~(officers)~~) candidates who have been (~~(nominated)~~) qualified to appear on the ballot for an office to be voted upon at that election, together with the ballot titles of all measures, the hours during which the polls will be open, and the polling places for each precinct, giving the address of each polling place. The names of all candidates for nonpartisan offices must be published separately with designation of the offices for which they are candidates but without party designation. This is the only notice required for a state, county, district, or municipal general or special election and supersedes the provisions of any and all other statutes, whether general or special in nature, having different requirements for the giving of notice of any general or special elections.

**Sec. 42 was vetoed. See message at end of chapter.*

**Sec. 43. RCW 29A.60.020 and 2003 c 111 s 1502 are each amended to read as follows:*

(1) For any office at any election or primary, any voter may write in on the ballot the name of any person for an office who has filed as a write-in candidate for the office in the manner provided by RCW 29A.24.310 and such vote shall be counted the same as if the name had been printed on the ballot and marked by the voter. No write-in vote made for any person who has not filed a declaration of candidacy pursuant to RCW 29A.24.310 is valid if that person filed for the same office, either as a regular candidate or a write-in candidate, at the preceding primary. Any abbreviation used to designate office, position, or political party shall be accepted if the canvassing board can determine, to their satisfaction, the voter's intent.

(2) The number of write-in votes cast for each office must be recorded and reported with the canvass for the election.

(3) Write-in votes cast for an individual candidate for an office need not be tallied if the total number of write-in votes cast for the office is not greater than the number of votes cast for the candidate apparently (~~(nominated)~~) qualified to appear on the general election ballot or elected, and the write-in votes could not have altered the outcome of the primary or election. In the case of write-in votes for statewide office or for any office whose jurisdiction encompasses more than one county, write-in votes for an individual candidate must be tallied whenever the county auditor is notified by either the office of the secretary of state or another auditor in a multicounty jurisdiction that it appears that the write-in votes could alter the outcome of the primary or election.

(4) In the case of statewide offices or jurisdictions that encompass more than one county, if the total number of write-in votes cast for an office within a county is greater than the number of votes cast for a candidate apparently (~~(nominated)~~) qualified to appear on the general election ballot or elected in a

primary or election, the auditor shall tally all write-in votes for individual candidates for that office and notify the office of the secretary of state and the auditors of the other counties within the jurisdiction, that the write-in votes for individual candidates should be tallied.

**Sec. 43 was vetoed. See message at end of chapter.*

**Sec. 44. RCW 29A.60.220 and 2003 c 111 s 1522 are each amended to read as follows:*

(1) If the requisite number of any federal, state, county, city, or district offices have not ~~((been nominated))~~ qualified to appear on the general election ballot in a primary by reason of two or more persons having an equal and requisite number of votes for being placed on the general election ballot, the official empowered by state law to certify candidates for the general election ballot shall give notice to the several persons so having the equal and requisite number of votes to attend at the appropriate office at the time designated by that official, who shall then and there proceed publicly to decide by lot which of those persons will be declared ~~((nominated))~~ qualified and placed on the general election ballot.

(2) If the requisite number of any federal, state, county, city, district, or precinct officers have not been elected by reason of two or more persons having an equal and highest number of votes for one and the same office, the official empowered by state law to issue the original certificate of election shall give notice to the several persons so having the highest and equal number of votes to attend at the appropriate office at the time to be appointed by that official, who shall then and there proceed publicly to decide by lot which of those persons will be declared duly elected, and the official shall make out and deliver to the person thus duly declared elected a certificate of election.

**Sec. 44 was vetoed. See message at end of chapter.*

**Sec. 45. RCW 29A.64.010 and 2003 c 111 s 1601 are each amended to read as follows:*

An officer of a political party or any person for whom votes were cast in a primary who was not declared ~~((nominated))~~ qualified to appear on the general election ballot may file a written application for a recount of the votes or a portion of the votes cast at that primary for all persons for whom votes were cast for ~~((nomination to))~~ that office.

An officer of a political party or any person for whom votes were cast at any election may file a written application for a recount of the votes or a portion of the votes cast at that election for all candidates for election to that office.

Any group of five or more registered voters may file a written application for a recount of the votes or a portion of the votes cast upon any question or issue. They shall designate one of the members of the group as chair and shall indicate the voting residence of each member of the group.

An application for a recount of the votes cast for an office or on a ballot measure must be filed with the officer with whom filings are made for the jurisdiction.

An application for a recount must specify whether the recount will be done manually or by the vote tally system. A recount done by the vote tally system must use programming that recounts and reports only the office or

ballot measure in question. The county shall also provide for a test of the logic and accuracy of that program.

An application for a recount must be filed within three business days after the county canvassing board or secretary of state has declared the official results of the primary or election for the office or issue for which the recount is requested.

This chapter applies to the recounting of votes cast by paper ballots and to the recounting of votes recorded on ballots counted by a vote tally system.

**Sec. 45 was vetoed. See message at end of chapter.*

**Sec. 46. RCW 29A.64.020 and 2003 c 111 s 1602 are each amended to read as follows:*

(1) If the official canvass of all of the returns for any office at any primary or election reveals that the difference in the number of votes cast for a candidate apparently (~~nominated~~) qualified to appear on the general election ballot or elected to any office and the number of votes cast for the closest apparently defeated opponent is less than two thousand votes and also less than one-half of one percent of the total number of votes cast for both candidates, the county canvassing board shall conduct a recount of all votes cast on that position.

(a) Whenever such a difference occurs in the number of votes cast for candidates for a position the declaration of candidacy for which was filed with the secretary of state, the secretary of state shall, within three business days of the day that the returns of the primary or election are first certified by the canvassing boards of those counties, direct those boards to recount all votes cast on the position.

(b) If the difference in the number of votes cast for the apparent winner and the closest apparently defeated opponent is less than one hundred fifty votes and also less than one-fourth of one percent of the total number of votes cast for both candidates, the votes shall be recounted manually or as provided in subsection (3) of this section.

(2) A mandatory recount shall be conducted in the manner provided by RCW 29A.64.030, 29A.64.040, and 29A.64.060. No cost of a mandatory recount may be charged to any candidate.

(3) The apparent winner and closest apparently defeated opponent for an office for which a manual recount is required under subsection (1)(b) of this section may select an alternative method of conducting the recount. To select such an alternative, the two candidates shall agree to the alternative in a signed, written statement filed with the election official for the office. The recount shall be conducted using the alternative method if: It is suited to the balloting system that was used for casting the votes for the office; it involves the use of a vote tallying system that is approved for use in this state by the secretary of state; and the vote tallying system is readily available in each county required to conduct the recount. If more than one balloting system was used in casting votes for the office, an alternative to a manual recount may be selected for each system.

**Sec. 46 was vetoed. See message at end of chapter.*

**Sec. 47. RCW 29A.64.040 and 2003 c 111 s 1604 are each amended to read as follows:*

(1) At the time and place established for a recount, the canvassing board or its duly authorized representatives, in the presence of all witnesses who may be in attendance, shall open the sealed containers containing the ballots to be recounted, and shall recount the votes for the offices or issues for which the recount has been ordered. Ballots shall be handled only by the members of the canvassing board or their duly authorized representatives.

Witnesses shall be permitted to observe the ballots and the process of tabulating the votes, but they shall not be permitted to handle the ballots. The canvassing board shall not permit the tabulation of votes for any ~~((nomination, election,))~~ office or issue other than the ones for which a recount was applied for or required.

(2) At any time before the ballots from all of the precincts listed in the application for the recount have been recounted, the applicant may file with the board a written request to stop the recount.

(3) The recount may be observed by persons representing the candidates affected by the recount or the persons representing both sides of an issue that is being recounted. The observers may not make a record of the names, addresses, or other information on the ballots, poll books, or applications for absentee ballots unless authorized by the superior court. The secretary of state or county auditor may limit the number of observers to not less than two on each side if, in his or her opinion, a greater number would cause undue delay or disruption of the recount process.

**Sec. 47 was vetoed. See message at end of chapter.*

**Sec. 48. RCW 29A.64.060 and 2003 c 111 s 1606 are each amended to read as follows:*

Upon completion of the canvass of a recount, the canvassing board shall prepare and certify an amended abstract showing the votes cast in each precinct for which the recount was conducted. Copies of the amended abstracts must be transmitted to the same officers who received the abstract on which the recount was based.

If the ~~((nomination, election,))~~ office or issue for which the recount was conducted was submitted only to the voters of a county, the canvassing board shall file the amended abstract with the original results of that election or primary.

If the ~~((nomination, election,))~~ office or issue for which a recount was conducted was submitted to the voters of more than one county, the secretary of state shall canvass the amended abstracts and shall file an amended abstract with the original results of that election. An amended abstract certified under this section supersedes any prior abstract of the results for the same offices or issues at the same primary or election.

**Sec. 48 was vetoed. See message at end of chapter.*

**Sec. 49. RCW 29A.64.080 and 2003 c 111 s 1608 are each amended to read as follows:*

The canvassing board shall determine the expenses for conducting a recount of votes.

The cost of the recount shall be deducted from the amount deposited by the applicant for the recount at the time of filing the request for the recount, and the balance shall be returned to the applicant. If the costs of the recount exceed the deposit, the applicant shall pay the difference. No charges may be

deducted by the canvassing board from the deposit for a recount if the recount changes the result of the ((nomination)) primary or election for which the recount was ordered.

**Sec. 49 was vetoed. See message at end of chapter.*

**Sec. 50. RCW 29A.68.010 and 2003 c 111 s 1701 are each amended to read as follows:*

Any justice of the supreme court, judge of the court of appeals, or judge of the superior court in the proper county shall, by order, require any person charged with error, wrongful act, or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty and to do as the court orders or to show cause forthwith why the error should not be corrected, the wrongful act desisted from, or the duty or order not performed, whenever it is made to appear to such justice or judge by affidavit of an elector that:

(1) An error or omission has occurred or is about to occur in printing the name of any candidate on official ballots; or

(2) An error other than as provided in subsections (1) and (3) of this section has been committed or is about to be committed in printing the ballots; or

(3) The name of any person has been or is about to be wrongfully placed upon the ballots; or

(4) A wrongful act other than as provided for in subsections (1) and (3) of this section has been performed or is about to be performed by any election officer; or

(5) Any neglect of duty on the part of an election officer other than as provided for in subsections (1) and (3) of this section has occurred or is about to occur; or

(6) An error or omission has occurred or is about to occur in the issuance of a certificate of election.

An affidavit of an elector under subsections (1) and (3) above when relating to a primary election must be filed with the appropriate court no later than the second Friday following the closing of the filing period ((for nominations)) for such office and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsections (1) and (3) of this section when relating to a general election must be filed with the appropriate court no later than three days following the official certification of the primary election returns and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsection (6) of this section shall be filed with the appropriate court no later than ten days following the issuance of a certificate of election.

**Sec. 50 was vetoed. See message at end of chapter.*

**Sec. 51. RCW 29A.80.010 and 2003 c 111 s 2001 are each amended to read as follows:*

((1)) Each political party organization may((1))
(a) Make its own)) adopt rules ((and regulations; and

(b) Perform all functions inherent in such an organization.

(2) Only major political parties may designate candidates to appear on the state primary ballot as provided in RCW 29A.28.010)) governing its own organization and the nonstatutory functions of that organization.

*Sec. 51 was vetoed. See message at end of chapter.

***Sec. 52. RCW 29A.84.260 and 2003 c 111 s 2114 are each amended to read as follows:**

The following apply to persons signing ((~~nominating~~)) petitions prescribed by RCW 29A.20.150 and 29A.24.100:

(1) A person who signs a petition with any other than his or her name shall be guilty of a misdemeanor.

(2) A person shall be guilty of a misdemeanor if the person knowingly: Signs more than one petition for any single candidacy of any single candidate; signs the petition when he or she is not a legal voter; or makes a false statement as to his or her residence.

*Sec. 52 was vetoed. See message at end of chapter.

***Sec. 53. RCW 29A.84.310 and 2003 c 111 s 2117 are each amended to read as follows:**

Every person who:

(1) Knowingly provides false information on his or her declaration of candidacy ((~~or~~)), filing petition ((~~of nomination~~)), or nominating petition; or

(2) Conceals or fraudulently defaces or destroys a certificate that has been filed with an elections officer under RCW ((~~29A.20.110 through 29A.20.200~~)) 29A.20.120 through 29A.20.180 or a declaration of candidacy or petition of nomination that has been filed with an elections officer, or any part of such a certificate, declaration, or petition, is guilty of a class C felony punishable under RCW 9A.20.021.

*Sec. 53 was vetoed. See message at end of chapter.

***Sec. 54. RCW 29A.84.710 and 2003 c 111 s 2137 are each amended to read as follows:**

Every person who:

(1) Knowingly and falsely issues a certificate of ((~~nomination~~)) qualification or election; or

(2) Knowingly provides false information on a certificate which must be filed with an elections officer under RCW ((~~29A.20.110 through 29A.20.200~~)) 29A.20.120 through 29A.20.180, is guilty of a class C felony punishable under RCW 9A.20.021.

*Sec. 54 was vetoed. See message at end of chapter.

***Sec. 55. RCW 42.17.020 and 2002 c 75 s 1 are each amended to read as follows:**

(1) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(2) "Authorized committee" means the political committee authorized by a candidate, or by the public official against whom recall charges have been filed, to accept contributions or make expenditures on behalf of the candidate or public official.

(3) "Ballot proposition" means any "measure" as defined by RCW ((~~29.01.110~~)) 29A.04.091, or any initiative, recall, or referendum proposition

proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency prior to its circulation for signatures.

(4) *"Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a commercial, proprietary, financial, economic, or monetary disadvantage.*

(5) *"Bona fide political party" means:*

(a) *An organization that has filed a valid certificate of nomination with the secretary of state under chapter ((29.24)) 29A.20 RCW;*

(b) *The governing body of the state organization of a major political party, as defined in RCW ((29.01.090)) 29A.04.085, that is the body authorized by the charter or bylaws of the party to exercise authority on behalf of the state party; or*

(c) *The county central committee or legislative district committee of a major political party. There may be only one legislative district committee for each party in each legislative district.*

(6) *"Depository" means a bank designated by a candidate or political committee pursuant to RCW 42.17.050.*

(7) *"Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political committee, pursuant to RCW 42.17.050, to perform the duties specified in that section.*

(8) *"Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when he or she first:*

(a) *Receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office;*

(b) *Announces publicly or files for office;*

(c) *Purchases commercial advertising space or broadcast time to promote his or her candidacy; or*

(d) *Gives his or her consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.*

(9) *"Caucus political committee" means a political committee organized and maintained by the members of ((a major political party in)) the majority caucus in the state senate or state house of representatives, or by the members of the minority caucus in the state senate or state house of representatives.*

(10) *"Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.*

(11) *"Commission" means the agency established under RCW 42.17.350.*

(12) *"Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind: PROVIDED, That for the purpose of compliance with RCW 42.17.241, the term "compensation" shall not include per diem allowances or other payments made by a governmental entity to reimburse a public official for*

expenses incurred while the official is engaged in the official business of the governmental entity.

(13) "Continuing political committee" means a political committee that is an organization of continuing existence not established in anticipation of any particular election campaign.

(14)(a) "Contribution" includes:

(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration;

(ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, or their agents;

(iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising prepared by a candidate, a political committee, or its authorized agent;

(iv) Sums paid for tickets to fund-raising events such as dinners and parties, except for the actual cost of the consumables furnished at the event.

(b) "Contribution" does not include:

(i) Standard interest on money deposited in a political committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political committee that is returned to the contributor within five business days of the date on which it is received by the candidate or political committee;

(iv) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;

(v) An internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(vi) The rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person;

(vii) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made must be reported as an in-kind contribution and counts towards any applicable contribution limit of the person providing the facility;

(viii) Legal or accounting services rendered to or on behalf of:

(A) A political party or caucus political committee if the person paying for the services is the regular employer of the person rendering such services; or

(B) *A candidate or an authorized committee if the person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of ensuring compliance with state election or public disclosure laws.*

(c) *Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.*

(15) *"Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.*

(16) *"Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters: PROVIDED, That an election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.*

(17) *"Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.*

(18) *"Election cycle" means the period beginning on the first day of December after the date of the last previous general election for the office that the candidate seeks and ending on November 30th after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on November 30th after the special election.*

(19) *"Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. The term "expenditure" shall not include the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported.*

(20) *"Final report" means the report described as a final report in RCW 42.17.080(2).*

(21) *"General election" for the purposes of RCW 42.17.640 means the election that results in the election of a person to a state office. It does not include a primary.*

(22) *"Gift," is as defined in RCW 42.52.010.*

(23) *"Immediate family" includes the spouse, dependent children, and other dependent relatives, if living in the household. For the purposes of RCW 42.17.640 through 42.17.790, "immediate family" means an individual's spouse, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse and the spouse of any such person.*

(24) *"Independent expenditure" means an expenditure that has each of the following elements:*

(a) *It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;*

(b) *The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and*

(c) *The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of five hundred dollars or more. A series of expenditures, each of which is under five hundred dollars, constitutes one independent expenditure if their cumulative value is five hundred dollars or more.*

(25)(a) *"Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family as defined for purposes of RCW 42.17.640 through 42.17.790, or an association to which the individual belongs.*

(b) *A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.*

(c) *A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.*

(d) *A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.*

(26) *"Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, having passed both houses, are pending approval by the governor.*

(27) *"Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of*

Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.

(28) "Lobbyist" includes any person who lobbies either in his or her own or another's behalf.

(29) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom he or she is compensated for acting as a lobbyist.

(30) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

(31) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, the term "person in interest" means and includes the parent or duly appointed legal representative.

(32) "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support in any election campaign.

(33) "Political committee" means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

(34) "Primary" for the purposes of RCW 42.17.640 means the procedure for ~~((nominating))~~ qualifying a candidate to state office under chapter ~~((29.18 or 29.21 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter 29.18 or 29.21))~~ 29A.52 RCW.

(35) "Public office" means any federal, state, county, city, town, school district, port district, special district, or other state political subdivision elective office.

(36) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives.

(37) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW ~~((29.82.015))~~ 29A.56.120 and ending thirty days after the recall election.

(38) "State legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

(39) "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

(40) "State official" means a person who holds a state office.

(41) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the committee or candidate prior to that election. In the case of a continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts when it makes its final report under RCW 42.17.065.

(42) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

As used in this chapter, the singular shall take the plural and any gender, the other, as the context requires.

*Sec. 55 was vetoed. See message at end of chapter.

***NEW SECTION.** Sec. 56. (1) The subheadings in chapter 29A.52 RCW "PARTISAN PRIMARIES" AND "NONPARTISAN PRIMARIES" will be combined under one subheading "PRIMARIES."

(2) The subheading in chapter 29A.20 RCW "MINOR PARTY AND INDEPENDENT CANDIDATE NOMINATIONS" will be changed to "MINOR AND INDEPENDENT PRESIDENTIAL CANDIDATES."

(3) The code reviser shall recaption RCW 29A.24.100 as "Filing petition—Form."

(4) The code reviser shall recaption RCW 29A.36.170 as "Candidates qualified for the general election."

(5) The code reviser shall recaption RCW 29A.52.320 as "Certification of candidates qualified to appear on the general election ballot."

(6) The code reviser shall recaption RCW 29A.84.310 as "Candidacy declarations, filing petitions, nominating petitions."

(7) The code reviser shall recaption RCW 29A.84.710 as "Documents regarding qualification, election, candidacy—Frauds and falsehoods."

*Sec. 56 was vetoed. See message at end of chapter.

***NEW SECTION.** Sec. 57. The following acts or parts of acts are each repealed:

(1) RCW 29A.04.157 (September primary) and 2003 c 111 s 128;

(2) *RCW 29A.20.110 (Definitions—"Convention" and "election jurisdiction") and 2003 c 111 s 505, 1977 ex.s. c 329 s 1, & 1965 c 9 s 29.24.010;*

(3) *RCW 29A.20.130 (Convention—Notice) and 2003 c 111 s 507;*

(4) *RCW 29A.20.200 (Declarations of candidacy required, exceptions—Payment of fees) and 2003 c 111 s 514, 1990 c 59 s 103, 1989 c 215 s 8, 1977 ex.s. c 329 s 7, & 1965 c 9 s 29.24.070;*

(5) *RCW 29A.24.200 (Lapse of election when no filing for single positions—Effect) and 2003 c 111 s 620;*

(6) *RCW 29A.24.210 (Vacancy in partisan elective office—Special filing period) and 2003 c 111 s 621;*

(7) *RCW 29A.28.010 (Major party ticket) and 2003 c 111 s 701, 1990 c 59 s 102, 1977 ex.s. c 329 s 12, & 1965 c 9 s 29.18.150;*

(8) *RCW 29A.28.020 (Death or disqualification—Correcting ballots—Counting votes already cast) and 2003 c 111 s 702, 2001 c 46 s 4, & 1977 ex.s. c 329 s 13;*

(9) *RCW 29A.36.190 (Partisan candidates qualified for general election) and 2003 c 111 s 919;*

(10) *RCW 29A.52.130 (Blanket primary authorized) and 2003 c 111 s 1304; and*

(11) *RCW 29A.04.903 (Effective date—2003 c 111) and 2003 c 111 s 2405.*

*Sec. 57 was vetoed. See message at end of chapter.

PART 2 - NOMINATING PRIMARY

***NEW SECTION. Sec. 101.** *A new section is added to chapter 29A.52 RCW to read as follows:*

If a court of competent jurisdiction holds that a candidate may not identify a major or minor political party as best approximating his or her political philosophy, as provided in RCW 29A.24.030(3), and all appeals of that court order have been exhausted or waived, the secretary of state shall notify the governor, the majority and minority leaders of the two largest caucuses in the senate and the house of representatives, the code reviser, and all county auditors that the state can no longer conduct a qualifying primary and instead will conduct a nominating primary. Upon issuance of such a notification by the secretary of state, no qualifying primary may be held in Washington.

*Sec. 101 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 102. *A new section is added to chapter 29A.04 RCW to read as follows:*

As used in this title:

(1) "Ballot" means, as the context implies, either:

(a) The issues and offices to be voted upon in a jurisdiction or portion of a jurisdiction at a particular primary, general election, or special election;

(b) A facsimile of the contents of a particular ballot whether printed on a paper ballot or ballot card or as part of a voting machine or voting device;

(c) A physical or electronic record of the choices of an individual voter in a particular primary, general election, or special election; or

(d) The physical document on which the voter's choices are to be recorded;

(2) "Paper ballot" means a piece of paper on which the ballot for a particular election or primary has been printed, on which a voter may record his or her choices for any candidate or for or against any measure, and that is to be tabulated manually;

(3) "Ballot card" means any type of card or piece of paper of any size on which a voter may record his or her choices for any candidate and for or against any measure and that is to be tabulated on a vote tallying system;

(4) "Sample ballot" means a printed facsimile of all the issues and offices on the ballot in a jurisdiction and is intended to give voters notice of the issues, offices, and candidates that are to be voted on at a particular primary, general election, or special election;

(5) "Provisional ballot" means a ballot issued to a voter at the polling place on election day by the precinct election board, for one of the following reasons:

(a) The voter's name does not appear in the poll book;

(b) There is an indication in the poll book that the voter has requested an absentee ballot, but the voter wishes to vote at the polling place;

(c) There is a question on the part of the voter concerning the issues or candidates on which the voter is qualified to vote;

(6) "Party ballot" means a primary election ballot specific to a particular major political party that lists all partisan offices to be voted on at that primary, and the candidates for those offices who affiliate with that same major political party;

(7) "Nonpartisan ballot" means a primary election ballot that lists all nonpartisan races and ballot measures to be voted on at that primary.

NEW SECTION. Sec. 103. A new section is added to chapter 29A.04 RCW to read as follows:

"Major political party" means a political party of which at least one nominee for president, vice president, United States senator, or a statewide office received at least five percent of the total vote cast at the last preceding state general election in an even-numbered year. A political party qualifying as a major political party under this section retains such status until the next even-year election at which a candidate of that party does not achieve at least five percent of the vote for one of the previously specified offices. If none of these offices appear on the ballot in an even-year general election, the major party retains its status as a major party through that election. However, a political party of which no nominee received at least ten percent of the total vote cast may forgo its status as a major political party by filing with the secretary of state an appropriate party rule within sixty days of attaining major party status under this section, or within fifteen days of the effective date of this section, whichever is later.

NEW SECTION. Sec. 104. A new section is added to chapter 29A.04 RCW to read as follows:

The county auditor of each county shall be ex officio the supervisor of all primaries and elections, general or special, and it shall be the county auditor's duty to provide places for holding such primaries and elections; to appoint the precinct election officers and to provide for their compensation; to provide the supplies and materials necessary for the conduct of elections to the precinct election officers; and to publish and post notices of calling such primaries and elections in the manner provided by law. The notice of a primary held in an

even-numbered year must indicate that the office of precinct committee officer will be on the ballot. The auditor shall also apportion to each city, town, or district, and to the state of Washington in the odd-numbered year, its share of the expense of such primaries and elections. This section does not apply to general or special elections for any city, town, or district that is not subject to section 106 of this act and RCW 29A.04.330, but all such elections must be held and conducted at the time, in the manner, and by the officials (with such notice, requirements for filing for office, and certifications by local officers) as provided and required by the laws governing such elections.

NEW SECTION. Sec. 105. A new section is added to chapter 29A.04 RCW to read as follows:

Nominating primaries for general elections to be held in November, and the election of precinct committee officers, must be held on the third Tuesday of the preceding September or on the seventh Tuesday immediately preceding such general election, whichever occurs first.

NEW SECTION. Sec. 106. A new section is added to chapter 29A.04 RCW to read as follows:

(1) All state, county, city, town, and district general elections for the election of federal, state, legislative, judicial, county, city, town, and district officers, and for the submission to the voters of the state, county, city, town, or district of any measure for their adoption and approval or rejection, shall be held on the first Tuesday after the first Monday of November, in the year in which they may be called. A statewide general election shall be held on the first Tuesday after the first Monday of November of each year. However, the statewide general election held in odd-numbered years shall be limited to (a) city, town, and district general elections as provided for in RCW 29A.04.330, or as otherwise provided by law; (b) the election of federal officers for the remainder of any unexpired terms in the membership of either branch of the Congress of the United States; (c) the election of state and county officers for the remainder of any unexpired terms of offices created by or whose duties are described in Article II, section 15, Article III, sections 16, 17, 19, 20, 21, 22, and 23, and Article IV, sections 3 and 5 of the state Constitution and RCW 2.06.080; (d) the election of county officers in any county governed by a charter containing provisions calling for general county elections at this time; and (e) the approval or rejection of state measures, including proposed constitutional amendments, matters pertaining to any proposed constitutional convention, initiative measures and referendum measures proposed by the electorate, referendum bills, and any other matter provided by the legislature for submission to the electorate.

(2) A county legislative authority may, if it deems an emergency to exist, call a special county election by presenting a resolution to the county auditor at least forty-five days prior to the proposed election date. Except as provided in subsection (4) of this section, a special election called by the county legislative authority shall be held on one of the following dates as decided by such governing body:

- (a) The first Tuesday after the first Monday in February;
- (b) The second Tuesday in March;
- (c) The fourth Tuesday in April;
- (d) The third Tuesday in May;

(e) The day of the primary as specified by section 105 of this act; or

(f) The first Tuesday after the first Monday in November.

(3) In addition to the dates set forth in subsection (2)(a) through (f) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God. Such county special election shall be noticed and conducted in the manner provided by law.

(4) In a presidential election year, if a presidential preference primary is conducted in February, March, April, or May under chapter 29A.56 RCW, the date on which a special election may be called by the county legislative authority under subsection (2) of this section during the month of that primary is the date of the presidential primary.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections except for those elections held pursuant to a home-rule charter adopted under Article XI, section 4 of the state Constitution. This section shall not be construed as fixing the time for holding primary elections, or elections for the recall of any elective public officer.

NEW SECTION. Sec. 107. A new section is added to chapter 29A.08 RCW to read as follows:

No record may be created or maintained by a state or local governmental agency or a political organization that identifies a voter with the information marked on the voter's ballot, including the choice that a voter makes on a partisan primary ballot regarding political party affiliation.

NEW SECTION. Sec. 108. A new section is added to chapter 29A.08 RCW to read as follows:

Under no circumstances may an individual be required to affiliate with, join, adhere to, express faith in, or declare a preference for, a political party or organization upon registering to vote.

NEW SECTION. Sec. 109. A new section is added to chapter 29A.12 RCW to read as follows:

The secretary of state shall not approve a vote tallying system unless it:

(1) Correctly counts votes on ballots on which the proper number of votes have been marked for any office or issue;

(2) Ignores votes marked for any office or issue where more than the allowable number of votes have been marked, but correctly counts the properly voted portions of the ballot;

(3) Accumulates a count of the specific number of ballots tallied for each precinct, total votes by candidate for each office, and total votes for and against each issue of the ballot in that precinct;

(4) Produces precinct and cumulative totals in printed form; and

(5) Except for functions or capabilities unique to this state, has been tested, certified, and used in at least one other state or election jurisdiction.

NEW SECTION. Sec. 110. A new section is added to chapter 29A.20 RCW to read as follows:

(1) Any nomination of a candidate for partisan public office by other than a major political party may be made only: (a) In a convention held not earlier than

the last Saturday in June and not later than the first Saturday in July or during any of the seven days immediately preceding the first day for filing declarations of candidacy as fixed in accordance with section 118 of this act; (b) as provided by section 147 of this act; or (c) as otherwise provided in this section. Minor political party and independent candidates may appear only on the general election ballot.

(2) Nominations of candidates for president and vice president of the United States other than by a major political party may be made either at a convention conducted under subsection (1) of this section, or at a similar convention taking place not earlier than the first Sunday in July and not later than seventy days before the general election. Conventions held during this time period may not nominate candidates for any public office other than president and vice president of the United States, except as provided in subsection (3) of this section.

(3) If a special filing period for a partisan office is opened under section 116 of this act, candidates of minor political parties and independent candidates may file for office during that special filing period. The names of those candidates may not appear on the general election ballot unless they are nominated by convention held no later than five days after the close of the special filing period and a certificate of nomination is filed with the filing officer no later than three days after the convention. The requirements of section 189 of this act do not apply to such a convention.

(4) A minor political party may hold more than one convention but in no case shall any such party nominate more than one candidate for any one partisan public office or position. For the purpose of nominating candidates for the offices of president and vice president, United States senator, United States representative, or a statewide office, a minor party or independent candidate holding multiple conventions may add together the number of signatures of different individuals from each convention obtained in support of the candidate or candidates in order to obtain the number required by section 111 of this act. For all other offices for which nominations are made, signatures of the requisite number of registered voters must be obtained at a single convention.

NEW SECTION. Sec. 111. A new section is added to chapter 29A.20 RCW to read as follows:

(1) To be valid, a convention must be attended by at least one hundred registered voters.

(2) In order to nominate candidates for the offices of president and vice president of the United States, United States senator, United States representative, or any statewide office, a nominating convention shall obtain and submit to the filing officer the signatures of at least one thousand registered voters of the state of Washington. In order to nominate candidates for any other office, a nominating convention shall obtain and submit to the filing officer the signatures of one hundred persons who are registered to vote in the jurisdiction of the office for which the nominations are made.

NEW SECTION. Sec. 112. A new section is added to chapter 29A.20 RCW to read as follows:

A nominating petition submitted under this chapter shall clearly identify the name of the minor party or independent candidate convention as it appears on the certificate of nomination as required by section 154(3) of this act. The

petition shall also contain a statement that the person signing the petition is a registered voter of the state of Washington and shall have a space for the voter to sign his or her name and to print his or her name and address. No person may sign more than one nominating petition under this chapter for an office for an election.

NEW SECTION. Sec. 113. A new section is added to chapter 29A.20 RCW to read as follows:

Not later than the Friday immediately preceding the first day for candidates to file, the secretary of state shall notify the county auditors of the names and designations of all minor party and independent candidates who have filed valid convention certificates and nominating petitions with that office. Except for the offices of president and vice president, persons nominated under this chapter shall file declarations of candidacy as provided by section 158 of this act and RCW 29A.24.070. The name of a candidate nominated at a convention shall not be printed upon the general election ballot unless he or she pays the fee required by law to be paid by candidates for the same office to be nominated at a primary.

NEW SECTION. Sec. 114. A new section is added to chapter 29A.24 RCW to read as follows:

(1) The nominating petition authorized by section 160 of this act must be printed on sheets of uniform color and size, must include a place for each individual to sign and print his or her name and the address, city, and county at which he or she is registered to vote, and must contain no more than twenty numbered lines.

(2) For candidates for nonpartisan office and candidates of a major political party for partisan office, the nominating petition must be in substantially the following form:

The warning prescribed by RCW 29A.72.140; followed by:

We, the undersigned registered voters of (the state of Washington or the political subdivision for which the nomination is made), hereby petition that the name of (candidate's name) be printed on the official primary ballot for the office of (insert name of office).

(3) For independent candidates and candidates of a minor political party for partisan office, the nominating petition must be in substantially the following form:

The warning prescribed by RCW 29A.72.140; followed by:

We, the undersigned registered voters of (the state of Washington or the political subdivision for which the nomination is made), hereby petition that the name of (candidate's name) be printed on the official general election ballot for the office of (insert name of office).

NEW SECTION. Sec. 115. A new section is added to chapter 29A.24 RCW to read as follows:

A candidate may withdraw his or her declaration of candidacy at any time before the close of business on the Thursday following the last day for candidates to file under RCW 29A.24.050 by filing, with the officer with whom the declaration of candidacy was filed, a signed request that his or her name not

be printed on the ballot. There shall be no withdrawal period for declarations of candidacy filed during special filing periods held under this title. The filing officer may permit the withdrawal of a filing for the office of precinct committee officer at the request of the candidate at any time if no absentee ballots have been issued for that office and the ballots for that precinct have not been printed. The filing officer may permit the withdrawal of a filing for any elected office of a city, town, or special district at the request of the candidate at any time before a primary if the primary ballots for that city, town, or special district have not been ordered. No filing fee may be refunded to any candidate who withdraws under this section. Notice of the deadline for withdrawal of candidacy and that the filing fee is not refundable shall be given to each candidate at the time he or she files.

NEW SECTION. Sec. 116. A new section is added to chapter 29A.24 RCW to read as follows:

Filings for a partisan elective office shall be opened for a period of three normal business days whenever, on or after the first day of the regular filing period and before the sixth Tuesday prior to a primary, a vacancy occurs in that office, leaving an unexpired term to be filled by an election for which filings have not been held.

Any such special three-day filing period shall be fixed by the election officer with whom declarations of candidacy for that office are filed. The election officer shall give notice of the special three-day filing period by notifying the press, radio, and television in the county or counties involved, and by such other means as may be required by law.

Candidacies validly filed within the special three-day filing period shall appear on the ballot as if filed during the regular filing period.

NEW SECTION. Sec. 117. A new section is added to chapter 29A.24 RCW to read as follows:

Any person who desires to be a write-in candidate and have such votes counted at a primary or election may file a declaration of candidacy with the officer designated in RCW 29A.24.070 not later than the day before the primary or election. Declarations of candidacy for write-in candidates must be accompanied by a filing fee in the same manner as required of other candidates filing for the office as provided in section 160 of this act.

Votes cast for write-in candidates who have filed such declarations of candidacy and write-in votes for persons appointed by major political parties pursuant to section 192 of this act need only specify the name of the candidate in the appropriate location on the ballot in order to be counted. Write-in votes cast for any other candidate, in order to be counted, must designate the office sought and position number or political party, if the manner in which the write-in is done does not make the office or position clear.

No person may file as a write-in candidate where:

(1) At a general election, the person attempting to file either filed as a write-in candidate for the same office at the preceding primary or the person's name appeared on the ballot for the same office at the preceding primary;

(2) The person attempting to file as a write-in candidate has already filed a valid write-in declaration for that primary or election, unless one or the other of the two filings is for the office of precinct committee person;

(3) The name of the person attempting to file already appears on the ballot as a candidate for another office, unless one of the two offices for which he or she is a candidate is precinct committeeperson.

The declaration of candidacy shall be similar to that required by section 158 of this act. No write-in candidate filing under this section may be included in any voter's pamphlet produced under chapter 29A.32 RCW unless that candidate qualifies to have his or her name printed on the general election ballot. The legislative authority of any jurisdiction producing a local voter's pamphlet under chapter 29A.32 RCW may provide, by ordinance, for the inclusion of write-in candidates in such pamphlets.

NEW SECTION. Sec. 118. A new section is added to chapter 29A.28 RCW to read as follows:

(1) Whenever a vacancy occurs in the United States house of representatives or the United States senate from this state, the governor shall order a special election to fill the vacancy. Minor political party candidates and independent candidates may be nominated through the convention procedures provided in chapter 29A.20 RCW.

(2) Within ten days of such vacancy occurring, he or she shall issue a writ of election fixing a date for the special vacancy election not less than ninety days after the issuance of the writ, fixing a date for the primary for nominating major political party candidates for the special vacancy election not less than thirty days before the day fixed for holding the special vacancy election, fixing the dates for the special filing period, and designating the term or part of the term for which the vacancy exists. If the vacancy is in the office of United States representative, the writ of election shall specify the congressional district that is vacant.

(3) If the vacancy occurs less than six months before a state general election and before the second Friday following the close of the filing period for that general election, the special primary, special vacancy election, and minor party and independent candidate nominating conventions must be held in concert with the state primary and state general election in that year.

(4) If the vacancy occurs on or after the first day for filing under RCW 29A.24.050 and on or before the second Friday following the close of the filing period, a special filing period of three normal business days shall be fixed by the governor and notice thereof given to all media, including press, radio, and television within the area in which the vacancy election is to be held, to the end that, insofar as possible, all interested persons will be aware of such filing period. The last day of the filing period shall not be later than the third Tuesday before the primary at which major political party candidates are to be nominated. The names of major political party candidates who have filed valid declarations of candidacy during this three-day period shall appear on the approaching primary ballot. The requirements of section 189 of this act do not apply to a minor political party or independent candidate convention held under this subsection.

(5) If the vacancy occurs later than the second Friday following the close of the filing period, a special primary, special vacancy election, and the minor party and independent candidate conventions to fill the position shall be held after the next state general election but, in any event, no later than the ninetieth day following the November election.

NEW SECTION. Sec. 119. A new section is added to chapter 29A.28 RCW to read as follows:

The general election laws and laws relating to partisan primaries shall apply to the special primaries and vacancy elections provided for in chapter 29A.28 RCW to the extent that they are not inconsistent with the provisions of these sections. Minor political party and independent candidates may appear only on the general election ballot. Statutory time deadlines relating to availability of absentee ballots, certification, canvassing, and related procedures that cannot be met in a timely fashion may be modified for the purposes of a specific primary or vacancy election under this chapter by the secretary of state through emergency rules adopted under section 151 of this act.

NEW SECTION. Sec. 120. A new section is added to chapter 29A.28 RCW to read as follows:

If a vacancy occurs in the office of precinct committee officer by reason of death, resignation, or disqualification of the incumbent, or because of failure to elect, the respective county chair of the county central committee shall fill the vacancy by appointment. However, in a legislative district having a majority of its precincts in a county with a population of one million or more, the appointment may be made only upon the recommendation of the legislative district chair. The person so appointed must have the same qualifications as candidates when filing for election to the office for that precinct. When a vacancy in the office of precinct committee officer exists because of failure to elect at a state primary, the vacancy may not be filled until after the organization meeting of the county central committee and the new county chair has been selected as provided by RCW 29A.80.030.

NEW SECTION. Sec. 121. A new section is added to chapter 29A.32 RCW to read as follows:

The voters' pamphlet must contain:

(1) Information about each ballot measure initiated by or referred to the voters for their approval or rejection as required by RCW 29A.32.070;

(2) In even-numbered years, statements, if submitted, advocating the candidacies of nominees for the office of president and vice president of the United States, United States senator, United States representative, governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, commissioner of public lands, superintendent of public instruction, insurance commissioner, state senator, state representative, justice of the supreme court, judge of the court of appeals, or judge of the superior court. Candidates may also submit a campaign mailing address and telephone number and a photograph not more than five years old and of a size and quality that the secretary of state determines to be suitable for reproduction in the voters' pamphlet;

(3) In odd-numbered years, if any office voted upon statewide appears on the ballot due to a vacancy, then statements and photographs for candidates for any vacant office listed in subsection (2) of this section must appear;

(4) In even-numbered years, a section explaining how voters may participate in the election campaign process; the address and telephone number of the public disclosure commission established under RCW 42.17.350; and a

summary of the disclosure requirements that apply when contributions are made to candidates and political committees;

(5) In even-numbered years the name, address, and telephone number of each political party with nominees listed in the pamphlet, if filed with the secretary of state by the state committee of a major political party or the presiding officer of the convention of a minor political party;

(6) In each odd-numbered year immediately before a year in which a president of the United States is to be nominated and elected, information explaining the precinct caucus and convention process used by each major political party to elect delegates to its national presidential candidate nominating convention. The pamphlet must also provide a description of the statutory procedures by which minor political parties are formed and the statutory methods used by the parties to nominate candidates for president;

(7) An application form for an absentee ballot;

(8) A brief statement explaining the deletion and addition of language for proposed measures under RCW 29A.32.080;

(9) Any additional information pertaining to elections as may be required by law or in the judgment of the secretary of state is deemed informative to the voters.

NEW SECTION. Sec. 122. A new section is added to chapter 29A.32 RCW to read as follows:

If the secretary of state prints and distributes a voters' pamphlet for a primary in an even-numbered year, it must contain:

(1) A description of the office of precinct committee officer and its duties;

(2) An explanation that, for partisan offices, only voters who choose to affiliate with a major political party may vote in that party's primary election, and that voters must limit their participation in a partisan primary to one political party; and

(3) An explanation that minor political party candidates and independent candidates will appear only on the general election ballot.

NEW SECTION. Sec. 123. A new section is added to chapter 29A.32 RCW to read as follows:

The local voters' pamphlet shall include but not be limited to the following:

(1) Appearing on the cover, the words "official local voters' pamphlet," the name of the jurisdiction producing the pamphlet, and the date of the election or primary;

(2) A list of jurisdictions that have measures or candidates in the pamphlet;

(3) Information on how a person may register to vote and obtain an absentee ballot;

(4) The text of each measure accompanied by an explanatory statement prepared by the prosecuting attorney for any county measure or by the attorney for the jurisdiction submitting the measure if other than a county measure. All explanatory statements for city, town, or district measures not approved by the attorney for the jurisdiction submitting the measure shall be reviewed and approved by the county prosecuting attorney or city attorney, when applicable, before inclusion in the pamphlet;

(5) The arguments for and against each measure submitted by committees selected pursuant to RCW 29A.32.280; and

(6) For partisan primary elections, information on how to vote the applicable ballot format and an explanation that minor political party candidates and independent candidates will appear only on the general election ballot.

NEW SECTION. Sec. 124. A new section is added to chapter 29A.36 RCW to read as follows:

On or before the day following the last day for major political parties to fill vacancies in the ticket as provided by section 191 of this act, the secretary of state shall certify to each county auditor a list of the candidates who have filed declarations of candidacy in his or her office for the primary. For each office, the certificate shall include the name of each candidate, his or her address, and his or her party designation, if any. Minor political party and independent candidates may appear only on the general election ballot.

NEW SECTION. Sec. 125. A new section is added to chapter 29A.36 RCW to read as follows:

Except for the candidates for the positions of president and vice president, for a partisan or nonpartisan office for which no primary is required, or for independent or minor party candidates, the names of all candidates who, under this title, filed a declaration of candidacy or were certified as a candidate to fill a vacancy on a major party ticket will appear on the appropriate ballot at the primary throughout the jurisdiction in which they are to be nominated.

NEW SECTION. Sec. 126. A new section is added to chapter 29A.36 RCW to read as follows:

Partisan primaries must be conducted using either:

(1) A consolidated ballot format that includes a major political party identification check-off box that allows a voter to select from a list of the major political parties the major political party with which the voter chooses to affiliate. The consolidated ballot must include all partisan races, nonpartisan races, and ballot measures to be voted on at that primary; or

(2) A physically separate ballot format that includes both party ballots and a nonpartisan ballot. A party ballot must be specific to a particular major political party and may include only the partisan offices to be voted on at that primary and the names of candidates for those partisan offices who designated that same major political party in their declarations of candidacy. The nonpartisan ballot must include all nonpartisan races and ballot measures to be voted on at that primary.

NEW SECTION. Sec. 127. A new section is added to chapter 29A.36 RCW to read as follows:

(1) If the consolidated ballot format is used, the major political party identification check-off box must appear on the primary ballot before all offices and ballot measures. Clear and concise instructions to the voter must be prominently displayed immediately before the list of major political parties, and must include:

(a) A question asking the voter to indicate the major political party with which the voter chooses to affiliate;

(b) A statement that, for a major political party candidate, only votes cast by voters who choose to affiliate with that same major political party will be tabulated and reported;

(c) A statement that votes cast for a major political party candidate by a voter who chooses to affiliate with a different major political party will not be tabulated or reported;

(d) A statement that votes cast for a major political party candidate by a voter who fails to select a major political party affiliation will not be tabulated or reported;

(e) A statement that votes cast for a major political party candidate by a voter who selects more than one major political party with which to affiliate will not be tabulated or reported; and

(f) A statement that the party identification option will not affect votes cast for candidates for nonpartisan offices, or for or against ballot measures.

(2) If the physically separate ballot format is used, clear and concise instructions to the voter must be prominently displayed, and must include:

(a) A statement explaining that only one party ballot and one nonpartisan ballot may be voted;

(b) A statement explaining that if more than one party ballot is voted, none of the party ballots will be tabulated or reported;

(c) A statement explaining that a voter's affiliation with a major political party will be inferred from the act of voting the party ballot for that major political party; and

(d) A statement explaining that every eligible registered voter may vote a nonpartisan ballot, regardless of any party affiliation on the part of the voter.

NEW SECTION. Sec. 128. A new section is added to chapter 29A.36 RCW to read as follows:

Every ballot for a single combination of issues, offices, and candidates shall be uniform within a precinct and shall identify the type of primary or election, the county, and the date of the primary or election, and the ballot or voting device shall contain instructions on the proper method of recording a vote, including write-in votes. Each position, together with the names of the candidates for that office, shall be clearly separated from other offices or positions in the same jurisdiction. The offices in each jurisdiction shall be clearly separated from each other. No paper ballot or ballot card may be marked in any way that would permit the identification of the person who voted that ballot.

NEW SECTION. Sec. 129. A new section is added to chapter 29A.36 RCW to read as follows:

(1)(a) The positions or offices on a primary consolidated ballot shall be arranged in substantially the following order: United States senator; United States representative; governor; lieutenant governor; secretary of state; state treasurer; state auditor; attorney general; commissioner of public lands; superintendent of public instruction; insurance commissioner; state senator; state representative; county officers; justices of the supreme court; judges of the court of appeals; judges of the superior court; and judges of the district court. For all other jurisdictions on the primary consolidated ballot, the offices in each jurisdiction shall be grouped together and be in the order of the position numbers assigned to those offices, if any.

(b)(i) The positions or offices on a primary party ballot must be arranged in substantially the following order: United States senator; United States

representative; governor; lieutenant governor; secretary of state; state treasurer; state auditor; attorney general; commissioner of public lands; insurance commissioner; state senator; state representative; and partisan county officers. For all other jurisdictions on the primary party ballot, the offices in each jurisdiction must be grouped together and be in the order of the position numbers assigned to those offices, if any.

(ii) The positions or offices on a primary nonpartisan ballot must be arranged in substantially the following order: Superintendent of public instruction; justices of the supreme court; judges of the court of appeals; judges of the superior court; and judges of the district court. For all other jurisdictions on the primary nonpartisan ballot, the offices in each jurisdiction must be grouped together and be in the order of the position numbers assigned to those offices, if any.

(2) The order of the positions or offices on an election ballot shall be substantially the same as on a primary consolidated ballot except that state ballot issues must be placed before all offices. The offices of president and vice president of the United States shall precede all other offices on a presidential election ballot. The positions on a ballot to be assigned to ballot measures regarding local units of government shall be established by the secretary of state by rule.

(3) The political party or independent candidacy of each candidate for partisan office shall be indicated next to the name of the candidate on the primary and election ballot. A candidate shall file a written notice with the filing officer within three business days after the close of the filing period designating the political party to be indicated next to the candidate's name on the ballot if either: (a) The candidate has been nominated by two or more minor political parties or independent conventions; or (b) the candidate has both filed a declaration of candidacy declaring an affiliation with a major political party and been nominated by a minor political party or independent convention. If no written notice is filed the filing officer shall give effect to the party designation shown upon the first document filed. A candidate may be deemed nominated by a minor party or independent convention only if all documentation required by chapter 29A.20 RCW has been timely filed.

NEW SECTION. Sec. 130. A new section is added to chapter 29A.36 RCW to read as follows:

After the close of business on the last day for candidates to file for office, the filing officer shall, from among those filings made in person and by mail, determine by lot the order in which the names of those candidates will appear on all primary, sample, and absentee ballots. The determination shall be done publicly and may be witnessed by the media and by any candidate. If no primary is required for any nonpartisan office under section 172 of this act or RCW 29A.52.220, or if any independent or minor party candidate files a declaration of candidacy, the names shall appear on the general election ballot in the order determined by lot.

NEW SECTION. Sec. 131. A new section is added to chapter 29A.36 RCW to read as follows:

Except in each county with a population of one million or more, on or before the fifteenth day before a primary or election, the county auditor shall

prepare a sample ballot which shall be made readily available to members of the public. The secretary of state shall adopt rules governing the preparation of sample ballots in counties with a population of one million or more. The rules shall permit, among other alternatives, the preparation of more than one sample ballot by a county with a population of one million or more for a primary or election, each of which lists a portion of the offices and issues to be voted on in that county. The position of precinct committee officer shall be shown on the sample ballot for the primary, but the names of candidates for the individual positions need not be shown.

NEW SECTION. Sec. 132. A new section is added to chapter 29A.36 RCW to read as follows:

(1) On the top of each ballot must be printed clear and concise instructions directing the voter how to mark the ballot, including write-in votes. On the top of each primary ballot must be printed the instructions required by this chapter.

(2) The questions of adopting constitutional amendments or any other state measure authorized by law to be submitted to the voters at that election must appear after the instructions and before any offices.

(3) In a year that president and vice president appear on the general election ballot, the names of candidates for president and vice president for each political party must be grouped together with a single response position for a voter to indicate his or her choice.

(4) On a general election ballot, the candidate or candidates of the major political party that received the highest number of votes from the electors of this state for the office of president of the United States at the last presidential election must appear first following the appropriate office heading. The candidate or candidates of the other major political parties will follow according to the votes cast for their nominees for president at the last presidential election, and independent candidates and the candidate or candidates of all other parties will follow in the order of their qualification with the secretary of state.

(5) All paper ballots and ballot cards used at a polling place must be sequentially numbered in such a way to permit removal of such numbers without leaving any identifying marks on the ballot.

NEW SECTION. Sec. 133. A new section is added to chapter 29A.36 RCW to read as follows:

The name of a candidate for a partisan office for which a primary was conducted shall not be printed on the ballot for that office at the subsequent general election unless, at the preceding primary, the candidate receives a number of votes equal to at least one percent of the total number of votes cast for all candidates for that office and a plurality of the votes cast by voters affiliated with that party for candidates for that office affiliated with that party.

NEW SECTION. Sec. 134. A new section is added to chapter 29A.40 RCW to read as follows:

(I) The county auditor shall issue an absentee ballot for the primary or election for which it was requested, or for the next occurring primary or election when ongoing absentee status has been requested if the information contained in a request for an absentee ballot or ongoing absentee status received by the county auditor is complete and correct and the applicant is qualified to vote under federal or state law. Otherwise, the county auditor shall notify the

applicant of the reason or reasons why the request cannot be accepted. Whenever two or more candidates have filed for the position of precinct committee officer for the same party in the same precinct, the contest for that position must be presented to absentee voters from that precinct by either including the contest on the regular absentee ballot or a separate absentee ballot. The ballot must provide space designated for writing in the name of additional candidates.

(2) A registered voter may obtain a replacement ballot if the ballot is destroyed, spoiled, lost, or not received by the voter. The voter may obtain the ballot by telephone request, by mail, electronically, or in person. The county auditor shall keep a record of each replacement ballot provided under this subsection.

(3) A copy of the state voters' pamphlet must be sent to registered voters temporarily outside the state, out-of-state voters, overseas voters, and service voters along with the absentee ballot if such a pamphlet has been prepared for the primary or election and is available to the county auditor at the time of mailing. The county auditor shall mail all absentee ballots and related material to voters outside the territorial limits of the United States and the District of Columbia under 39 U.S.C. 3406.

NEW SECTION. Sec. 135. A new section is added to chapter 29A.40 RCW to read as follows:

The county auditor shall send each absentee voter a ballot, a security envelope in which to seal the ballot after voting, a larger envelope in which to return the security envelope, and instructions on how to mark the ballot and how to return it to the county auditor. The instructions that accompany an absentee ballot for a partisan primary must include instructions for voting the applicable ballot style, as provided in chapter 29A.36 RCW. The larger return envelope must contain a declaration by the absentee voter reciting his or her qualifications and stating that he or she has not voted in any other jurisdiction at this election, together with a summary of the penalties for any violation of any of the provisions of this chapter. The return envelope must provide space for the voter to indicate the date on which the ballot was voted and for the voter to sign the oath. A summary of the applicable penalty provisions of this chapter must be printed on the return envelope immediately adjacent to the space for the voter's signature. The signature of the voter on the return envelope must affirm and attest to the statements regarding the qualifications of that voter and to the validity of the ballot. For out-of-state voters, overseas voters, and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued. The voter must be instructed to either return the ballot to the county auditor by whom it was issued or attach sufficient first class postage, if applicable, and mail the ballot to the appropriate county auditor no later than the day of the election or primary for which the ballot was issued.

If the county auditor chooses to forward absentee ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter with questions about his or her eligibility to contact the county auditor. This explanation may be provided on the ballot envelope, on an enclosed insert, or printed directly on the ballot itself.

If the information is not included, the envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed.

NEW SECTION. Sec. 136. A new section is added to chapter 29A.44 RCW to read as follows:

A voter desiring to vote shall give his or her name to the precinct election officer who has the precinct list of registered voters. This officer shall announce the name to the precinct election officer who has the copy of the inspector's poll book for that precinct. If the right of this voter to participate in the primary or election is not challenged, the voter must be issued a ballot or permitted to enter a voting booth or to operate a voting device. For a partisan primary in a jurisdiction using the physically separate ballot format, the voter must be issued a nonpartisan ballot and each party ballot. The number of the ballot or the voter must be recorded by the precinct election officers. If the right of the voter to participate is challenged, RCW 29A.08.810 and 29A.08.820 apply to that voter.

NEW SECTION. Sec. 137. A new section is added to chapter 29A.44 RCW to read as follows:

On signing the precinct list of registered voters or being issued a ballot, the voter shall, without leaving the polling place or disability access location, proceed to one of the voting booths or voting devices to cast his or her vote. When county election procedures so provide, the election officers may tear off and retain the numbered stub from the ballot before delivering it to the voter. If an election officer has not already done so, when the voter has finished, he or she shall either (1) remove the numbered stub from the ballot, place the ballot in the ballot box, and return the number to the election officers, or (2) deliver the entire ballot to the election officers, who shall remove the numbered stub from the ballot and place the ballot in the ballot box. For a partisan primary in a jurisdiction using the physically separate ballot format, the voter shall also return unvoted party ballots to the precinct election officers, who shall void the unvoted party ballots and return them to the county auditor. If poll-site ballot counting devices are used, the voter shall put the ballot in the device.

NEW SECTION. Sec. 138. A new section is added to chapter 29A.44 RCW to read as follows:

As each voter casts his or her vote, the precinct election officers shall insert in the poll books or precinct list of registered voters opposite that voter's name, a notation to credit the voter with having participated in that primary or election. No record may be made of a voter's party affiliation in a partisan primary. The precinct election officers shall record the voter's name so that a separate record is kept.

NEW SECTION. Sec. 139. A new section is added to chapter 29A.52 RCW to read as follows:

Major political party candidates for all partisan elected offices, except for president and vice president, precinct committee officer, and offices exempted from the primary under section 172 of this act, must be nominated at primaries held under this chapter.

NEW SECTION. Sec. 140. A new section is added to chapter 29A.52 RCW to read as follows:

It is the intent of the legislature to create a primary for all partisan elected offices, except for president and vice president, precinct committee officer, and offices exempted from the primary under section 172 of this act, that:

- (1) Allows each voter to participate;
- (2) Preserves the privacy of each voter's party affiliation;
- (3) Rejects mandatory voter registration by political party;
- (4) Protects ballot access for all candidates, including minor political party and independent candidates;
- (5) Maintains a candidate's right to self-identify with any major political party; and
- (6) Upholds a political party's First Amendment right of association.

NEW SECTION. Sec. 141. A new section is added to chapter 29A.52 RCW to read as follows:

Instructions for voting a consolidated ballot or a physically separate ballot, whichever is applicable, must appear, at the very least, in:

- (1) Any primary voters' pamphlet prepared by the secretary of state or a local government if a partisan office will appear on the ballot;
- (2) Instructions that accompany any partisan primary ballot;
- (3) Any notice of a partisan primary published in compliance with section 145 of this act;
- (4) A sample ballot prepared by a county auditor under section 131 of this act for a partisan primary;
- (5) The web site of the office of the secretary of state and any existing web site of a county auditor's office; and
- (6) Every polling place.

NEW SECTION. Sec. 142. A new section is added to chapter 29A.52 RCW to read as follows:

- (1) Under a consolidated ballot format:
 - (a) Votes for a major political party candidate will only be tabulated and reported if cast by voters who choose to affiliate with that same major political party;
 - (b) Votes cast for a major political party candidate by a voter who chooses to affiliate with a different major political party may not be tabulated or reported;
 - (c) Votes cast for a major political party candidate by a voter who fails to select a major political party affiliation may not be tabulated or reported;
 - (d) Votes cast for a major political party candidate by a voter who selects more than one major political party with which to affiliate may not be tabulated or reported; and
 - (e) Votes properly cast may not be affected by votes improperly cast for other races.
- (2) Under a physically separate ballot format:
 - (a) Only one party ballot and one nonpartisan ballot may be voted;
 - (b) If more than one party ballot is voted, none of the ballots will be tabulated or reported;
 - (c) A voter's affiliation with a major political party will be inferred from the act of voting the party ballot for that major political party; and
 - (d) Every eligible registered voter may vote a nonpartisan ballot.

NEW SECTION. Sec. 143. A new section is added to chapter 29A.52 RCW to read as follows:

So far as applicable, the provisions of this title relating to conducting general elections govern the conduct of primaries.

NEW SECTION. Sec. 144. A new section is added to chapter 29A.52 RCW to read as follows:

Nothing in this chapter may be construed to mean that a voter may cast more than one vote for candidates for a given office.

NEW SECTION. Sec. 145. A new section is added to chapter 29A.52 RCW to read as follows:

Not more than ten nor less than three days before the primary the county auditor shall publish notice of such primary in one or more newspapers of general circulation within the county. The notice must contain the proper party designations, the names and addresses of all persons who have filed a declaration of candidacy to be voted upon at that primary, instructions for voting the applicable ballot, as provided in chapter 29A.36 RCW, the hours during which the polls will be open, and the polling places for each precinct, giving the address of each polling place. The names of all candidates for nonpartisan offices must be published separately with designation of the offices for which they are candidates but without party designation. This is the only notice required for the holding of any primary.

NEW SECTION. Sec. 146. A new section is added to chapter 29A.52 RCW to read as follows:

No later than the day following the certification of the returns of any primary, the secretary of state shall certify to the appropriate county auditors the names of all persons nominated for offices at a primary, or at an independent candidate or minor party convention.

NEW SECTION. Sec. 147. A new section is added to chapter 29A.60 RCW to read as follows:

(1) For any office at any election or primary, any voter may write in on the ballot the name of any person for an office who has filed as a write-in candidate for the office in the manner provided by section 117 of this act and such vote shall be counted the same as if the name had been printed on the ballot and marked by the voter. For a partisan primary in a jurisdiction using the physically separate ballot format, a voter may write in on a party ballot only the names of write-in candidates who affiliate with that major political party. No write-in vote made for any person who has not filed a declaration of candidacy pursuant to section 117 of this act is valid if that person filed for the same office, either as a regular candidate or a write-in candidate, at the preceding primary. Any abbreviation used to designate office, position, or political party shall be accepted if the canvassing board can determine, to their satisfaction, the voter's intent.

(2) The number of write-in votes cast for each office must be recorded and reported with the canvass for the election.

(3) Write-in votes cast for an individual candidate for an office need not be tallied if the total number of write-in votes and under votes recorded by the vote tabulation system for the office is not greater than the number of votes cast for the candidate apparently nominated or elected, and the write-in votes could not

have altered the outcome of the primary or election. In the case of write-in votes for statewide office or for any office whose jurisdiction encompasses more than one county, write-in votes for an individual candidate must be tallied whenever the county auditor is notified by either the office of the secretary of state or another auditor in a multicounty jurisdiction that it appears that the write-in votes could alter the outcome of the primary or election.

(4) In the case of statewide offices or jurisdictions that encompass more than one county, if the total number of write-in votes and under votes recorded by the vote tabulation system for an office within a county is greater than the number of votes cast for a candidate apparently nominated or elected in a primary or election, the auditor shall tally all write-in votes for individual candidates for that office and notify the office of the secretary of state and the auditors of the other counties within the jurisdiction, that the write-in votes for individual candidates should be tallied.

NEW SECTION. Sec. 148. A new section is added to chapter 29A.80 RCW to read as follows:

Any member of a major political party who is a registered voter in the precinct may upon payment of a fee of one dollar file his or her declaration of candidacy as prescribed under section 158 of this act with the county auditor for the office of precinct committee officer of his or her party in that precinct. When elected at the primary, the precinct committee officer shall serve so long as the committee officer remains an eligible voter in that precinct.

NEW SECTION. Sec. 149. A new section is added to chapter 29A.80 RCW to read as follows:

The statutory requirements for filing as a candidate at the primaries apply to candidates for precinct committee officer. The office must be voted upon at the primaries, and the names of all candidates must appear under the proper party and office designations on the ballot for the primary for each even-numbered year, and the one receiving the highest number of votes will be declared elected. However, to be declared elected, a candidate must receive at least ten percent of the number of votes cast for the candidate of the candidate's party receiving the greatest number of votes in the precinct. The term of office of precinct committee officer is two years, commencing the first day of December following the primary.

NEW SECTION. Sec. 150. A new section is added to chapter 29A.80 RCW to read as follows:

Within forty-five days after the statewide general election in even-numbered years, the county chair of each major political party shall call separate meetings of all elected precinct committee officers in each legislative district for the purpose of electing a legislative district chair in such district. The district chair shall hold office until the next legislative district reorganizational meeting two years later, or until a successor is elected.

The legislative district chair may be removed only by the majority vote of the elected precinct committee officers in the chair's district.

NEW SECTION. Sec. 151. A new section is added to chapter 29A.04 RCW to read as follows:

The secretary of state as chief election officer shall make reasonable rules in accordance with chapter 34.05 RCW not inconsistent with the federal and state

election laws to effectuate any provision of this title and to facilitate the execution of its provisions in an orderly, timely, and uniform manner relating to any federal, state, county, city, town, and district elections. To that end the secretary shall assist local election officers by devising uniform forms and procedures.

In addition to the rule-making authority granted otherwise by this section, the secretary of state shall make rules governing the following provisions:

- (1) The maintenance of voter registration records;
- (2) The preparation, maintenance, distribution, review, and filing of precinct maps;
- (3) Standards for the design, layout, and production of ballots;
- (4) The examination and testing of voting systems for certification;
- (5) The source and scope of independent evaluations of voting systems that may be relied upon in certifying voting systems for use in this state;
- (6) Standards and procedures for the acceptance testing of voting systems by counties;
- (7) Standards and procedures for testing the programming of vote tallying software for specific primaries and elections;
- (8) Standards and procedures for the preparation and use of each type of certified voting system including procedures for the operation of counting centers where vote tallying systems are used;
- (9) Standards and procedures to ensure the accurate tabulation and canvassing of ballots;
- (10) Consistency among the counties of the state in the preparation of ballots, the operation of vote tallying systems, and the canvassing of primaries and elections;
- (11) Procedures to ensure the secrecy of a voter's ballot when a small number of ballots are counted at the polls or at a counting center;
- (12) The use of substitute devices or means of voting when a voting device at the polling place is found to be defective, the counting of votes cast on the defective device, the counting of votes cast on the substitute device, and the documentation that must be submitted to the county auditor regarding such circumstances;
- (13) Procedures for the transportation of sealed containers of voted ballots or sealed voting devices;
- (14) The acceptance and filing of documents via electronic facsimile;
- (15) Voter registration applications and records;
- (16) The use of voter registration information in the conduct of elections;
- (17) The coordination, delivery, and processing of voter registration records accepted by driver licensing agents or the department of licensing;
- (18) The coordination, delivery, and processing of voter registration records accepted by agencies designated by the governor to provide voter registration services;
- (19) Procedures to receive and distribute voter registration applications by mail;
- (20) Procedures for a voter to change his or her voter registration address within a county by telephone;
- (21) Procedures for a voter to change the name under which he or she is registered to vote;

- (22) Procedures for canceling dual voter registration records and for maintaining records of persons whose voter registrations have been canceled;
- (23) Procedures for the electronic transfer of voter registration records between county auditors and the office of the secretary of state;
- (24) Procedures and forms for declarations of candidacy;
- (25) Procedures and requirements for the acceptance and filing of declarations of candidacy by electronic means;
- (26) Procedures for the circumstance in which two or more candidates have a name similar in sound or spelling so as to cause confusion for the voter;
- (27) Filing for office;
- (28) The order of positions and offices on a ballot;
- (29) Sample ballots;
- (30) Independent evaluations of voting systems;
- (31) The testing, approval, and certification of voting systems;
- (32) The testing of vote tallying software programming;
- (33) Standards and procedures to prevent fraud and to facilitate the accurate processing and canvassing of absentee ballots and mail ballots;
- (34) Standards and procedures to guarantee the secrecy of absentee ballots and mail ballots;
- (35) Uniformity among the counties of the state in the conduct of absentee voting and mail ballot elections;
- (36) Standards and procedures to accommodate out-of-state voters, overseas voters, and service voters;
- (37) The tabulation of paper ballots before the close of the polls;
- (38) The accessibility of polling places and registration facilities that are accessible to elderly and disabled persons;
- (39) The aggregation of precinct results if reporting the results of a single precinct could jeopardize the secrecy of a person's ballot;
- (40) Procedures for conducting a statutory recount;
- (41) Procedures for filling vacancies in congressional offices if the general statutory time requirements for availability of absentee ballots, certification, canvassing, and related procedures cannot be met;
- (42) Procedures for the statistical sampling of signatures for purposes of verifying and canvassing signatures on initiative, referendum, and recall election petitions;
- (43) Standards and deadlines for submitting material to the office of the secretary of state for the voters' pamphlet;
- (44) Deadlines for the filing of ballot titles for referendum bills and constitutional amendments if none have been provided by the legislature;
- (45) Procedures for the publication of a state voters' pamphlet;
- (46) Procedures for conducting special elections regarding nuclear waste sites if the general statutory time requirements for availability of absentee ballots, certification, canvassing, and related procedures cannot be met;
- (47) Procedures for conducting partisan primary elections;
- (48) Standards and procedures for the proper conduct of voting during the early voting period to provide accessibility for the blind or visually impaired;
- (49) Standards for voting technology and systems used by the state or any political subdivision to be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that

provides the same opportunity for access and participation, including privacy and independence, as other voters;

(50) All data formats for transferring voter registration data on electronic or machine-readable media for the purpose of administering the statewide voter registration list required by the Help America Vote Act (P.L. 107-252);

(51) Defining the interaction of electronic voter registration election management systems employed by each county auditor to maintain a local copy of each county's portion of the official state list of registered voters;

(52) Provisions and procedures to implement the state-based administrative complaint procedure as required by the Help America Vote Act (P.L. 107-252); and

(53) Facilitating the payment of local government grants to local government election officers or vendors.

NEW SECTION. Sec. 152. A new section is added to chapter 29A.04 RCW to read as follows:

"Primary" or "primary election" means a statutory procedure for nominating candidates to public office at the polls.

NEW SECTION. Sec. 153. A new section is added to chapter 29A.20 RCW to read as follows:

(1) A person filing a declaration of candidacy for an office shall, at the time of filing, be a registered voter and possess the qualifications specified by law for persons who may be elected to the office.

(2) Excluding the office of precinct committee officer or a temporary elected position such as a charter review board member or freeholder, no person may file for more than one office.

(3) The name of a candidate for an office shall not appear on a ballot for that office unless, except as provided in RCW 3.46.067 and 3.50.057, the candidate is, at the time the candidate's declaration of candidacy is filed, properly registered to vote in the geographic area represented by the office. For the purposes of this section, each geographic area in which registered voters may cast ballots for an office is represented by that office. If a person elected to an office must be nominated from a district or similar division of the geographic area represented by the office, the name of a candidate for the office shall not appear on a primary ballot for that office unless the candidate is, at the time the candidate's declaration of candidacy is filed, properly registered to vote in that district or division. The officer with whom declarations of candidacy must be filed under this title shall review each such declaration filed regarding compliance with this subsection.

(4) The requirements of voter registration and residence within the geographic area of a district do not apply to candidates for congressional office. Qualifications for the United States congress are specified in the United States Constitution.

NEW SECTION. Sec.154. A new section is added to chapter 29A.20 RCW to read as follows:

A certificate evidencing nominations made at a convention must:

(1) Be in writing;

(2) Contain the name of each person nominated, his or her residence, and the office for which he or she is named, and if the nomination is for the offices of

president and vice president of the United States, a sworn statement from both nominees giving their consent to the nomination;

(3) Identify the minor political party or the independent candidate on whose behalf the convention was held;

(4) Be verified by the oath of the presiding officer and secretary;

(5) Be accompanied by a nominating petition or petitions bearing the signatures and addresses of registered voters equal in number to that required by section 111 of this act;

(6) Contain proof of publication of the notice of calling the convention; and

(7) Be submitted to the appropriate filing officer not later than one week following the adjournment of the convention at which the nominations were made. If the nominations are made only for offices whose jurisdiction is entirely within one county, the certificate and nominating petitions must be filed with the county auditor. If a minor party or independent candidate convention nominates any candidates for offices whose jurisdiction encompasses more than one county, all nominating petitions and the convention certificates must be filed with the secretary of state.

NEW SECTION. Sec. 155. A new section is added to chapter 29A.20 RCW to read as follows:

(1) If two or more valid certificates of nomination are filed purporting to nominate different candidates for the same position using the same party name, the filing officer must give effect to both certificates. If conflicting claims to the party name are not resolved either by mutual agreement or by a judicial determination of the right to the name, the candidates must be treated as independent candidates. Disputes over the right to the name must not be permitted to delay the printing of either ballots or a voters' pamphlet. Other candidates nominated by the same conventions may continue to use the partisan affiliation unless a court of competent jurisdiction directs otherwise.

(2) A person affected may petition the superior court of the county in which the filing officer is located for a judicial determination of the right to the name of a minor political party, either before or after documents are filed with the filing officer. The court shall resolve the conflict between competing claims to the use of the same party name according to the following principles: (a) The prior established public use of the name during previous elections by a party composed of or led by the same individuals or individuals in documented succession; (b) prior established public use of the name earlier in the same election cycle; (c) the nomination of a more complete slate of candidates for a number of offices or in a number of different regions of the state; (d) documented affiliation with a national or statewide party organization with an established use of the name; (e) the first date of filing of a certificate of nomination; and (f) such other indicia of an established right to use of the name as the court may deem relevant. If more than one filing officer is involved, and one of them is the secretary of state, the petition must be filed in the superior court for Thurston county. Upon resolving the conflict between competing claims, the court may also address any ballot designation for the candidate who does not prevail.

NEW SECTION. Sec. 156. A new section is added to chapter 29A.20 RCW to read as follows:

A minor political party or independent candidate convention nominating candidates for the offices of president and vice president of the United States shall, not later than ten days after the adjournment of the convention, submit a list of presidential electors to the office of the secretary of state. The list shall contain the names and the mailing addresses of the persons selected and shall be verified by the presiding officer of the convention.

NEW SECTION. Sec. 157. A new section is added to chapter 29A.20 RCW to read as follows:

Upon the receipt of the certificate of nomination, the officer with whom it is filed shall check the certificate and canvass the signatures on the accompanying nominating petitions to determine if the requirements of section 111 of this act have been met. Once the determination has been made, the filing officer shall notify the presiding officer of the convention and any other persons requesting the notification, of his or her decision regarding the sufficiency of the certificate or the nominating petitions. Any appeal regarding the filing officer's determination must be filed with the superior court of the county in which the certificate or petitions were filed not later than five days from the date the determination is made, and shall be heard and finally disposed of by the court within five days of the filing. Nominating petitions shall not be available for public inspection or copying.

NEW SECTION. Sec. 158. A new section is added to chapter 29A.24 RCW to read as follows:

A candidate who desires to have his or her name printed on the ballot for election to an office other than president of the United States, vice president of the United States, or an office for which ownership of property is a prerequisite to voting shall complete and file a declaration of candidacy. The secretary of state shall adopt, by rule, a declaration of candidacy form for the office of precinct committee officer and a separate standard form for candidates for all other offices filing under this chapter. Included on the standard form shall be:

(1) A place for the candidate to declare that he or she is a registered voter within the jurisdiction of the office for which he or she is filing, and the address at which he or she is registered;

(2) A place for the candidate to indicate the position for which he or she is filing;

(3) A place for the candidate to indicate a party designation, if applicable;

(4) A place for the candidate to indicate the amount of the filing fee accompanying the declaration of candidacy or for the candidate to indicate that he or she is filing a nominating petition in lieu of the filing fee under section 160 of this act;

(5) A place for the candidate to sign the declaration of candidacy, stating that the information provided on the form is true and swearing or affirming that he or she will support the Constitution and laws of the United States and the Constitution and laws of the state of Washington.

In the case of a declaration of candidacy filed electronically, submission of the form constitutes agreement that the information provided with the filing is true, that he or she will support the Constitutions and laws of the United States and the state of Washington, and that he or she agrees to electronic payment of the filing fee established in section 160 of this act.

The secretary of state may require any other information on the form he or she deems appropriate to facilitate the filing process.

NEW SECTION. Sec. 159. A new section is added to chapter 29A.24 RCW to read as follows:

Any candidate may mail his or her declaration of candidacy for an office to the filing officer. Such declarations of candidacy shall be processed by the filing officer in the following manner:

(1) Any declaration received by the filing officer by mail before the tenth business day immediately preceding the first day for candidates to file for office shall be returned to the candidate submitting it, together with a notification that the declaration of candidacy was received too early to be processed. The candidate shall then be permitted to resubmit his or her declaration of candidacy during the filing period.

(2) Any properly executed declaration of candidacy received by mail on or after the tenth business day immediately preceding the first day for candidates to file for office and before the close of business on the last day of the filing period shall be included with filings made in person during the filing period. In partisan and judicial elections the filing officer shall determine by lot the order in which the names of those candidates shall appear upon sample and absentee primary ballots.

(3) Any declaration of candidacy received by the filing officer after the close of business on the last day for candidates to file for office shall be rejected and returned to the candidate attempting to file it.

NEW SECTION. Sec. 160. A new section is added to chapter 29A.24 RCW to read as follows:

A filing fee of one dollar shall accompany each declaration of candidacy for precinct committee officer; a filing fee of ten dollars shall accompany the declaration of candidacy for any office with a fixed annual salary of one thousand dollars or less; a filing fee equal to one percent of the annual salary of the office at the time of filing shall accompany the declaration of candidacy for any office with a fixed annual salary of more than one thousand dollars per annum. No filing fee need accompany a declaration of candidacy for any office for which compensation is on a per diem or per meeting attended basis.

A candidate who lacks sufficient assets or income at the time of filing to pay the filing fee required by this section shall submit with his or her declaration of candidacy a nominating petition. The petition shall contain not less than a number of signatures of registered voters equal to the number of dollars of the filing fee. The signatures shall be of voters registered to vote within the jurisdiction of the office for which the candidate is filing.

When the candidacy is for:

(1) A legislative or judicial office that includes territory from more than one county, the fee shall be paid to the secretary of state for equal division between the treasuries of the counties comprising the district.

(2) A city or town office, the fee shall be paid to the county auditor who shall transmit it to the city or town clerk for deposit in the city or town treasury.

NEW SECTION. Sec. 161. A new section is added to chapter 29A.24 RCW to read as follows:

Nominating petitions may be rejected for the following reasons:

- (1) The petition is not in the proper form;
- (2) The petition clearly bears insufficient signatures;
- (3) The petition is not accompanied by a declaration of candidacy;
- (4) The time within which the petition and the declaration of candidacy could have been filed has expired.

If the petition is accepted, the officer with whom it is filed shall canvass the signatures contained on it and shall reject the signatures of those persons who are not registered voters and the signatures of those persons who are not registered to vote within the jurisdiction of the office for which the nominating petition is filed. He or she shall additionally reject any signature that appears on the nominating petitions of two or more candidates for the same office and shall also reject, each time it appears, the name of any person who signs the same petition more than once.

If the officer with whom the petition is filed refuses to accept the petition or refuses to certify the petition as bearing sufficient valid signatures, the person filing the petition may appeal that action to the superior court. The application for judicial review shall take precedence over other cases and matters and shall be speedily heard and determined.

NEW SECTION. Sec. 162. A new section is added to chapter 29A.24 RCW to read as follows:

A void in candidacy for a nonpartisan office occurs when an election for such office, except for the short term, has been scheduled and no valid declaration of candidacy has been filed for the position or all persons filing such valid declarations of candidacy have died or been disqualified.

NEW SECTION. Sec. 163. A new section is added to chapter 29A.24 RCW to read as follows:

The election officer with whom declarations of candidacy are filed shall give notice of a void in candidacy for a nonpartisan office, by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law. The notice shall state the office, and the time and place for filing declarations of candidacy.

NEW SECTION. Sec. 164. A new section is added to chapter 29A.24 RCW to read as follows:

Filings to fill a void in candidacy for nonpartisan office must be made in the same manner and with the same official as required during the regular filing period for such office, except that nominating signature petitions that may be required of candidates filing for certain district offices during the normal filing period may not be required of candidates filing during the special three-day filing period.

NEW SECTION. Sec. 165. A new section is added to chapter 29A.24 RCW to read as follows:

Filings for a nonpartisan office shall be reopened for a period of three normal business days, such three day period to be fixed by the election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law whenever before the sixth Tuesday prior to a primary:

- (1) A void in candidacy occurs;

(2) A vacancy occurs in any nonpartisan office leaving an unexpired term to be filled by an election for which filings have not been held; or

(3) A nominee for judge of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified.

Candidacies validly filed within said three-day period shall appear on the ballot as if made during the earlier filing period.

NEW SECTION. Sec. 166. A new section is added to chapter 29A.24 RCW to read as follows:

Filings for a nonpartisan office (other than judge of the supreme court or superintendent of public instruction) shall be reopened for a period of three normal business days, such three day period to be fixed by the election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law, when:

(1) A void in candidacy for such nonpartisan office occurs on or after the sixth Tuesday prior to a primary but prior to the sixth Tuesday before an election; or

(2) A nominee for judge of the superior court eligible after a contested primary for a certificate of election by Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified within the ten day period immediately following the last day allotted for a candidate to withdraw; or

(3) A vacancy occurs in any nonpartisan office on or after the sixth Tuesday prior to a primary but prior to the sixth Tuesday before an election leaving an unexpired term to be filled by an election for which filings have not been held.

The candidate receiving a plurality of the votes cast for that office in the general election shall be deemed elected.

NEW SECTION. Sec. 167. A new section is added to chapter 29A.24 RCW to read as follows:

A scheduled election shall be lapsed, the office deemed stricken from the ballot, no purported write-in votes counted, and no candidate certified as elected, when:

(1) In an election for judge of the supreme court or superintendent of public instruction, a void in candidacy occurs on or after the sixth Tuesday prior to a primary, public filings and the primary being an indispensable phase of the election process for such offices;

(2) Except as otherwise specified in section 166 of this act, a nominee for judge of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution dies or is disqualified on or after the sixth Tuesday prior to a primary;

(3) In other elections for nonpartisan office a void in candidacy occurs or a vacancy occurs involving an unexpired term to be filled on or after the sixth Tuesday prior to an election.

NEW SECTION. Sec. 168. A new section is added to chapter 29A.32 RCW to read as follows:

(1) The maximum number of words for statements submitted by candidates is as follows: State representative, one hundred words; state senator, judge of the superior court, judge of the court of appeals, justice of the supreme court, and

all state offices voted upon throughout the state, except that of governor, two hundred words; president and vice president, United States senator, United States representative, and governor, three hundred words.

(2) Arguments written by committees under RCW 29A.32.060 may not exceed two hundred fifty words in length.

(3) Rebuttal arguments written by committees may not exceed seventy-five words in length.

(4) The secretary of state shall allocate space in the pamphlet based on the number of candidates or nominees for each office.

NEW SECTION. Sec. 169. A new section is added to chapter 29A.36 RCW to read as follows:

(1) Except as provided to the contrary in RCW 82.14.036, 82.46.021, or 82.80.090, the ballot title of any referendum filed on an enactment or portion of an enactment of a local government and any other question submitted to the voters of a local government consists of three elements: (a) An identification of the enacting legislative body and a statement of the subject matter; (b) a concise description of the measure; and (c) a question. The ballot title must conform with the requirements and be displayed substantially as provided under RCW 29A.72.050, except that the concise description must not exceed seventy-five words. If the local governmental unit is a city or a town, the concise statement shall be prepared by the city or town attorney. If the local governmental unit is a county, the concise statement shall be prepared by the prosecuting attorney of the county. If the unit is a unit of local government other than a city, town, or county, the concise statement shall be prepared by the prosecuting attorney of the county within which the majority area of the unit is located.

(2) A referendum measure on the enactment of a unit of local government shall be advertised in the manner provided for nominees for elective office.

(3) Subsection (1) of this section does not apply if another provision of law specifies the ballot title for a specific type of ballot question or proposition.

NEW SECTION. Sec. 170. A new section is added to chapter 29A.36 RCW to read as follows:

(1) Except as provided in RCW 29A.36.180 and in subsection (2) of this section, on the ballot at the general election for a nonpartisan office for which a primary was held, only the names of the candidate who received the greatest number of votes and the candidate who received the next greatest number of votes for that office shall appear under the title of that office, and the names shall appear in that order. If a primary was conducted, no candidate's name may be printed on the subsequent general election ballot unless he or she receives at least one percent of the total votes cast for that office at the preceding primary. On the ballot at the general election for any other nonpartisan office for which no primary was held, the names of the candidates shall be listed in the order determined under section 130 of this act.

(2) On the ballot at the general election for the office of justice of the supreme court, judge of the court of appeals, judge of the superior court, judge of the district court, or state superintendent of public instruction, if a candidate in a contested primary receives a majority of all the votes cast for that office or position, only the name of that candidate may be printed under the title of the office for that position.

NEW SECTION. Sec. 171. A new section is added to chapter 29A.36 RCW to read as follows:

The names of the persons certified as nominees by the secretary of state or the county canvassing board shall be printed on the ballot at the ensuing election.

No name of any candidate whose nomination at a primary is required by law shall be placed upon the ballot at a general or special election unless it appears upon the certificate of either (1) the secretary of state, or (2) the county canvassing board, or (3) a minor party convention or the state or county central committee of a major political party to fill a vacancy on its ticket under section 192 of this act.

Excluding the office of precinct committee officer or a temporary elected position such as a charter review board member or freeholder, a candidate's name shall not appear more than once upon a ballot for a position regularly nominated or elected at the same election.

NEW SECTION. Sec. 172. A new section is added to chapter 29A.52 RCW to read as follows:

Whenever it shall be necessary to hold a special election in an odd-numbered year to fill an unexpired term of any office which is scheduled to be voted upon for a full term in an even-numbered year, no September primary election shall be held in the odd-numbered year if, after the last day allowed for candidates to withdraw, either of the following circumstances exist:

(1) No more than one candidate of each qualified political party has filed a declaration of candidacy for the same partisan office to be filled; or

(2) No more than two candidates have filed a declaration of candidacy for a single nonpartisan office to be filled.

In either event, the officer with whom the declarations of candidacy were filed shall immediately notify all candidates concerned and the names of the candidates that would have been printed upon the September primary ballot, but for the provisions of this section, shall be printed as nominees for the positions sought upon the November general election ballot.

NEW SECTION. Sec. 173. A new section is added to chapter 29A.52 RCW to read as follows:

Candidates for the following offices shall be nominated at partisan primaries held pursuant to the provisions of this chapter:

(1) Congressional offices;

(2) All state offices except (a) judicial offices and (b) the office of superintendent of public instruction;

(3) All county offices except (a) judicial offices and (b) those offices where a county home rule charter provides otherwise.

NEW SECTION. Sec. 174. A new section is added to chapter 29A.52 RCW to read as follows:

The offices of superintendent of public instruction, justice of the supreme court, judge of the court of appeals, judge of the superior court, and judge of the district court shall be nonpartisan and the candidates therefor shall be nominated and elected as such.

All city, town, and special purpose district elective offices shall be nonpartisan and the candidates therefor shall be nominated and elected as such.

NEW SECTION. Sec. 175. A new section is added to chapter 29A.52 RCW to read as follows:

Except as provided in RCW 29A.32.260, notice for any state, county, district, or municipal election, whether special or general, must be given by at least one publication not more than ten nor less than three days before the election by the county auditor or the officer conducting the election as the case may be, in one or more newspapers of general circulation within the county. The legal notice must contain the title of each office under the proper party designation, the names and addresses of all officers who have been nominated for an office to be voted upon at that election, together with the ballot titles of all measures, the hours during which the polls will be open, and the polling places for each precinct, giving the address of each polling place. The names of all candidates for nonpartisan offices must be published separately with designation of the offices for which they are candidates but without party designation. This is the only notice required for a state, county, district, or municipal general or special election and supersedes the provisions of any and all other statutes, whether general or special in nature, having different requirements for the giving of notice of any general or special elections.

NEW SECTION. Sec. 176. A new section is added to chapter 29A.60 RCW to read as follows:

(1) If the requisite number of any federal, state, county, city, or district offices have not been nominated in a primary by reason of two or more persons having an equal and requisite number of votes for being placed on the general election ballot, the official empowered by state law to certify candidates for the general election ballot shall give notice to the several persons so having the equal and requisite number of votes to attend at the appropriate office at the time designated by that official, who shall then and there proceed publicly to decide by lot which of those persons will be declared nominated and placed on the general election ballot.

(2) If the requisite number of any federal, state, county, city, district, or precinct officers have not been elected by reason of two or more persons having an equal and highest number of votes for one and the same office, the official empowered by state law to issue the original certificate of election shall give notice to the several persons so having the highest and equal number of votes to attend at the appropriate office at the time to be appointed by that official, who shall then and there proceed publicly to decide by lot which of those persons will be declared duly elected, and the official shall make out and deliver to the person thus duly declared elected a certificate of election.

NEW SECTION. Sec. 177. A new section is added to chapter 29A.64 RCW to read as follows:

An officer of a political party or any person for whom votes were cast in a primary who was not declared nominated may file a written application for a recount of the votes or a portion of the votes cast at that primary for all persons for whom votes were cast for nomination to that office.

An officer of a political party or any person for whom votes were cast at any election may file a written application for a recount of the votes or a portion of the votes cast at that election for all candidates for election to that office.

Any group of five or more registered voters may file a written application for a recount of the votes or a portion of the votes cast upon any question or issue. They shall designate one of the members of the group as chair and shall indicate the voting residence of each member of the group.

An application for a recount of the votes cast for an office or on a ballot measure must be filed with the officer with whom filings are made for the jurisdiction.

An application for a recount must specify whether the recount will be done manually or by the vote tally system. A recount done by the vote tally system must use programming that recounts and reports only the office or ballot measure in question. The county shall also provide for a test of the logic and accuracy of that program.

An application for a recount must be filed within three business days after the county canvassing board or secretary of state has declared the official results of the primary or election for the office or issue for which the recount is requested.

This chapter applies to the recounting of votes cast by paper ballots and to the recounting of votes recorded on ballots counted by a vote tally system.

NEW SECTION. Sec. 178. A new section is added to chapter 29A.64 RCW to read as follows:

(1) If the official canvass of all of the returns for any office at any primary or election reveals that the difference in the number of votes cast for a candidate apparently nominated or elected to any office and the number of votes cast for the closest apparently defeated opponent is less than two thousand votes and also less than one-half of one percent of the total number of votes cast for both candidates, the county canvassing board shall conduct a recount of all votes cast on that position.

(a) Whenever such a difference occurs in the number of votes cast for candidates for a position the declaration of candidacy for which was filed with the secretary of state, the secretary of state shall, within three business days of the day that the returns of the primary or election are first certified by the canvassing boards of those counties, direct those boards to recount all votes cast on the position.

(b) If the difference in the number of votes cast for the apparent winner and the closest apparently defeated opponent is less than one hundred fifty votes and also less than one-fourth of one percent of the total number of votes cast for both candidates, the votes shall be recounted manually or as provided in subsection (3) of this section.

(2) A mandatory recount shall be conducted in the manner provided by RCW 29A.64.030, and sections 179 and 180 of this act. No cost of a mandatory recount may be charged to any candidate.

(3) The apparent winner and closest apparently defeated opponent for an office for which a manual recount is required under subsection (1)(b) of this section may select an alternative method of conducting the recount. To select such an alternative, the two candidates shall agree to the alternative in a signed, written statement filed with the election official for the office. The recount shall be conducted using the alternative method if: It is suited to the balloting system that was used for casting the votes for the office; it involves the use of a vote tallying system that is approved for use in this state by the secretary of state; and

the vote tallying system is readily available in each county required to conduct the recount. If more than one balloting system was used in casting votes for the office, an alternative to a manual recount may be selected for each system.

NEW SECTION. Sec. 179. A new section is added to chapter 29A.64 RCW to read as follows:

(1) At the time and place established for a recount, the canvassing board or its duly authorized representatives, in the presence of all witnesses who may be in attendance, shall open the sealed containers containing the ballots to be recounted, and shall recount the votes for the offices or issues for which the recount has been ordered. Ballots shall be handled only by the members of the canvassing board or their duly authorized representatives.

Witnesses shall be permitted to observe the ballots and the process of tabulating the votes, but they shall not be permitted to handle the ballots. The canvassing board shall not permit the tabulation of votes for any nomination, election, or issue other than the ones for which a recount was applied for or required.

(2) At any time before the ballots from all of the precincts listed in the application for the recount have been recounted, the applicant may file with the board a written request to stop the recount.

(3) The recount may be observed by persons representing the candidates affected by the recount or the persons representing both sides of an issue that is being recounted. The observers may not make a record of the names, addresses, or other information on the ballots, poll books, or applications for absentee ballots unless authorized by the superior court. The secretary of state or county auditor may limit the number of observers to not less than two on each side if, in his or her opinion, a greater number would cause undue delay or disruption of the recount process.

NEW SECTION. Sec. 180. A new section is added to chapter 29A.64 RCW to read as follows:

Upon completion of the canvass of a recount, the canvassing board shall prepare and certify an amended abstract showing the votes cast in each precinct for which the recount was conducted. Copies of the amended abstracts must be transmitted to the same officers who received the abstract on which the recount was based.

If the nomination, election, or issue for which the recount was conducted was submitted only to the voters of a county, the canvassing board shall file the amended abstract with the original results of that election or primary.

If the nomination, election, or issue for which a recount was conducted was submitted to the voters of more than one county, the secretary of state shall canvass the amended abstracts and shall file an amended abstract with the original results of that election. An amended abstract certified under this section supersedes any prior abstract of the results for the same offices or issues at the same primary or election.

NEW SECTION. Sec. 181. A new section is added to chapter 29A.64 RCW to read as follows:

The canvassing board shall determine the expenses for conducting a recount of votes.

The cost of the recount shall be deducted from the amount deposited by the applicant for the recount at the time of filing the request for the recount, and the balance shall be returned to the applicant. If the costs of the recount exceed the deposit, the applicant shall pay the difference. No charges may be deducted by the canvassing board from the deposit for a recount if the recount changes the result of the nomination or election for which the recount was ordered.

NEW SECTION. Sec. 182. A new section is added to chapter 29A.68 RCW to read as follows:

Any justice of the supreme court, judge of the court of appeals, or judge of the superior court in the proper county shall, by order, require any person charged with error, wrongful act, or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty and to do as the court orders or to show cause forthwith why the error should not be corrected, the wrongful act desisted from, or the duty or order not performed, whenever it is made to appear to such justice or judge by affidavit of an elector that:

(1) An error or omission has occurred or is about to occur in printing the name of any candidate on official ballots; or

(2) An error other than as provided in subsections (1) and (3) of this section has been committed or is about to be committed in printing the ballots; or

(3) The name of any person has been or is about to be wrongfully placed upon the ballots; or

(4) A wrongful act other than as provided for in subsections (1) and (3) of this section has been performed or is about to be performed by any election officer; or

(5) Any neglect of duty on the part of an election officer other than as provided for in subsections (1) and (3) of this section has occurred or is about to occur; or

(6) An error or omission has occurred or is about to occur in the issuance of a certificate of election.

An affidavit of an elector under subsections (1) and (3) above when relating to a primary election must be filed with the appropriate court no later than the second Friday following the closing of the filing period for nominations for such office and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsections (1) and (3) of this section when relating to a general election must be filed with the appropriate court no later than three days following the official certification of the primary election returns and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsection (6) of this section shall be filed with the appropriate court no later than ten days following the issuance of a certificate of election.

NEW SECTION. Sec. 183. A new section is added to chapter 29A.80 RCW to read as follows:

(1) Each political party organization may:

(a) Make its own rules and regulations; and

(b) Perform all functions inherent in such an organization.

(2) Only major political parties may designate candidates to appear on the state primary ballot as provided in section 191 of this act.

NEW SECTION. Sec. 184. A new section is added to chapter 29A.84 RCW to read as follows:

The following apply to persons signing nominating petitions prescribed by section 114 of this act:

(1) A person who signs a petition with any other than his or her name shall be guilty of a misdemeanor.

(2) A person shall be guilty of a misdemeanor if the person knowingly: Signs more than one petition for any single candidacy of any single candidate; signs the petition when he or she is not a legal voter; or makes a false statement as to his or her residence.

NEW SECTION. Sec. 185. A new section is added to chapter 29A.84 RCW to read as follows:

Every person who:

(1) Knowingly provides false information on his or her declaration of candidacy or petition of nomination; or

(2) Conceals or fraudulently defaces or destroys a certificate that has been filed with an elections officer under chapter 29A.20 RCW or a declaration of candidacy or petition of nomination that has been filed with an elections officer, or any part of such a certificate, declaration, or petition, is guilty of a class C felony punishable under RCW 9A.20.021.

NEW SECTION. Sec. 186. A new section is added to chapter 29A.84 RCW to read as follows:

Every person who:

(1) Knowingly and falsely issues a certificate of nomination or election; or

(2) Knowingly provides false information on a certificate which must be filed with an elections officer under chapter 29A.20 RCW, is guilty of a class C felony punishable under RCW 9A.20.021.

NEW SECTION. Sec. 187. A new section is added to chapter 29A.04 RCW to read as follows:

"September primary" means the primary election held in September to nominate candidates to be voted for at the ensuing election.

NEW SECTION. Sec. 188. A new section is added to chapter 29A.20 RCW to read as follows:

A "convention" for the purposes of this chapter, is an organized assemblage of registered voters representing an independent candidate or candidates or a new or minor political party, organization, or principle. As used in this chapter, the term "election jurisdiction" shall mean the state or any political subdivision or jurisdiction of the state from which partisan officials are elected. This term shall include county commissioner districts or council districts for members of a county legislative authority, counties for county officials who are nominated and elected on a county-wide basis, legislative districts for members of the legislature, congressional districts for members of Congress, and the state for president and vice president, members of the United States senate, and state officials who are elected on a statewide basis.

NEW SECTION. Sec. 189. A new section is added to chapter 29A.20 RCW to read as follows:

Each minor party or independent candidate must publish a notice in a newspaper of general circulation within the county in which the party or the

candidate intends to hold a convention. The notice must appear at least ten days before the convention is to be held, and shall state the date, time, and place of the convention. Additionally, it shall include the mailing address of the person or organization sponsoring the convention.

NEW SECTION. Sec. 190. A new section is added to chapter 29A.24 RCW to read as follows:

If after both the normal filing period and special three day filing period as provided by sections 165 and 166 of this act have passed, no candidate has filed for any single city, town, or district position to be filled, the election for such position shall be deemed lapsed, the office deemed stricken from the ballot and no write-in votes counted. In such instance, the incumbent occupying such position shall remain in office and continue to serve until a successor is elected at the next election when such positions are voted upon.

NEW SECTION. Sec. 191. A new section is added to chapter 29A.28 RCW to read as follows:

If a place on the ticket of a major political party is vacant because no person has filed for nomination as the candidate of that major political party, after the last day allowed for candidates to withdraw as provided by section 115 of this act, and if the vacancy is for a state or county office to be voted on solely by the electors of a single county, the county central committee of the major political party may select and certify a candidate to fill the vacancy. If the vacancy is for any other office the state central committee of the major political party may select and certify a candidate to fill the vacancy. The certificate must set forth the cause of the vacancy, the name of the person nominated, the office for which the person is nominated, and other pertinent information required in an ordinary certificate of nomination and be filed in the proper office no later than the first Friday after the last day allowed for candidates to withdraw, together with the candidate's fee applicable to that office and a declaration of candidacy.

NEW SECTION. Sec. 192. A new section is added to chapter 29A.28 RCW to read as follows:

A vacancy caused by the death or disqualification of any candidate or nominee of a major or minor political party may be filled at any time up to and including the day prior to the election for that position. For state partisan offices in any political subdivision voted on solely by electors of a single county, an individual shall be appointed to fill such vacancy by the county central committee in the case of a major political party or by the state central committee or comparable governing body in the case of a minor political party. For other partisan offices, including federal or statewide offices, an individual shall be appointed to fill such vacancy by the state central committee or comparable governing body of the appropriate political party.

If the vacancy occurs no later than the sixth Tuesday prior to the state primary or general election concerned and the ballots have been printed, it shall be mandatory that they be corrected by the appropriate election officers. In making such correction, it shall not be necessary to reprint complete ballots if any other less expensive technique can be used and the resulting correction is reasonably clear.

If the vacancy occurs after the sixth Tuesday prior to the state primary or general election and time does not exist in which to correct ballots (including

absentee ballots), either in total or in part, then the votes cast or recorded for the person who has died or become disqualified shall be counted for the person who has been named to fill such vacancy.

When the secretary of state is the person with whom the appointment by the major or minor political party is filed, the secretary shall, in certifying candidates or nominations to the various county officers insert the name of the person appointed to fill a vacancy.

If the secretary of state has already sent forth the certificate when the appointment to fill a vacancy is filed, the secretary shall forthwith certify to the county auditors of the proper counties the name and place of residence of the person appointed to fill a vacancy, the office for which the person is a candidate or nominee, the party the person represents, and all other pertinent facts pertaining to the vacancy.

NEW SECTION. Sec. 193. The following acts or parts of acts are each repealed:

(1) RCW 29A.04.007 (Ballot and related terms) and 2003 c 111 s 102, 1994 c 57 s 2, 1990 c 59 s 2, & 1977 ex.s. c 361 s 1;

(2) RCW 29A.04.085 (Major political party) and section 3 of this act, 2003 c 111 s 115, 1977 ex.s. c 329 s 9, & 1965 c 9 s 29.01.090;

(3) RCW 29A.04.127 (Primary) and section 5 of this act & 2003 c 111 s 122;

(4) RCW 29A.04.215 (County auditor—Duties—Exceptions) and 2003 c 111 s 134, 1987 c 295 s 1, 1977 ex.s. c 361 s 2, 1971 ex.s. c 202 s 1, 1965 c 123 s 1, & 1965 c 9 s 29.04.020;

(5) RCW 29A.04.310 (Primaries) and section 6 of this act, 2003 c 111 s 143, 1977 ex.s. c 361 s 29, 1965 ex.s. c 103 s 6, & 1965 c 9 s 29.13.070;

(6) RCW 29A.04.320 (State and local general elections—Statewide general election—Exceptions—Special county elections) and 2003 c 111 s 144, 1994 c 142 s 1, 1992 c 37 s 1, 1989 c 4 s 9 (Initiative Measure No. 99), 1980 c 3 s 1, 1975-'76 2nd ex.s. c 111 s 1, 1975-'76 2nd ex.s. c 3 s 1, 1973 2nd ex.s. c 36 s 1, 1973 c 4 s 1, 1965 c 123 s 2, & 1965 c 9 s 29.13.010;

(7) RCW 29A.04.610 (Rules by secretary of state) and 2003 c 111 s 161, 1971 ex.s. c 202 s 2, & 1965 c 9 s 29.04.080;

(8) RCW 29A.12.100 (Requirements of tallying systems for approval) and 2003 c 111 s 310;

(9) RCW 29A.20.020 (Qualifications for filing, appearance on ballot) and section 7 of this act, 2004 c ... (Senate Bill No. 6417) s 11, 2003 c 111 s 502, 1999 c 298 s 9, 1993 c 317 s 10, & 1991 c 178 s 1;

(10) RCW 29A.20.120 (Nomination by convention or write-in—Dates—Special filing period) and section 8 of this act & 2003 c 111 s 506;

(11) RCW 29A.20.140 (Convention—Requirements for validity) and section 9 of this act & 2003 c 111 s 508;

(12) RCW 29A.20.150 (Nominating petition—Requirements) and section 10 of this act & 2003 c 111 s 509;

(13) RCW 29A.20.160 (Certificate of nomination—Requisites) and section 11 of this act, 2003 c 111 s 510, 1989 c 215 s 4, 1977 ex.s. c 329 s 4, & 1965 c 9 s 29.24.040;

(14) RCW 29A.20.170 (Multiple certificates of nomination) and section 12 of this act & 2003 c 111 s 511;

(15) RCW 29A.20.180 (Presidential electors—Selection at convention) and section 13 of this act & 2003 c 111 s 512;

(16) RCW 29A.20.190 (Certificate of nomination—Checking signatures—Appeal of determination) and section 14 of this act & 2003 c 111 s 513;

(17) RCW 29A.24.030 (Declaration of candidacy) and section 15 of this act, 2003 c 111 s 603, 2002 c 140 s 1, & 1990 c 59 s 82.

(18) RCW 29A.24.080 (Declaration—Filing by mail) and section 17 of this act & 2003 c 111 s 608;

(19) RCW 29A.24.090 (Declaration—Fees and petitions) and section 18 of this act & 2003 c 111 s 609;

(20) RCW 29A.24.100 (Nominating petition—Form) and section 19 of this act, 2003 c 111 s 610, & 1984 c 142 s 5;

(21) RCW 29A.24.110 (Petitions—Rejection—Acceptance, canvass of signatures—Judicial review) and section 20 of this act & 2003 c 111 s 611;

(22) RCW 29A.24.130 (Withdrawal of candidacy) and 2003 c 111 s 613;

(23) RCW 29A.24.140 (Void in candidacy—Exception) and section 21 of this act & 2003 c 111 s 614;

(24) RCW 29A.24.150 (Notice of void in candidacy) and section 22 of this act & 2003 c 111 s 615;

(25) RCW 29A.24.160 (Filings to fill void in candidacy—How made) and section 23 of this act, 2003 c 111 s 616, & 1972 ex.s. c 61 s 6;

(26) RCW 29A.24.170 (Reopening of filing—Before sixth Tuesday before primary) and section 24 of this act & 2003 c 111 s 617;

(27) RCW 29A.24.180 (Reopening of filing—After sixth Tuesday before primary) and section 25 of this act & 2003 c 111 s 618;

(28) RCW 29A.24.190 (Scheduled election lapses, when) and section 26 of this act, 2003 c 111 s 619, 2002 c 108 s 1, 1975-'76 2nd ex.s. c 120 s 12, & 1972 ex.s. c 61 s 4;

(29) RCW 29A.24.310 (Write-in voting—Candidates, declaration) and section 27 of this act, 2003 c 111 s 622, 1999 c 157 s 1, 1995 c 158 s 1, 1990 c 59 s 100, & 1988 c 181 s 1;

(30) RCW 29A.28.040 (Congress—Special election) and section 29 of this act, 2003 c 111 s 704, 1990 c 59 s 105, 1985 c 45 s 4, 1973 2nd ex.s. c 36 s 3, & 1965 c 9 s 29.68.080;

(31) RCW 29A.28.060 (Congress—General, primary election laws to apply—Time deadlines, modifications) and section 30 of this act, 2003 c 111 s 706, 1985 c 45 s 7, & 1965 c 9 s 29.68.130;

(32) RCW 29A.28.070 (Precinct committee officer) and 2003 c 111 s 707;

(33) RCW 29A.32.030 (Contents) and section 31 of this act & 2003 c 111 s 803;

(34) RCW 29A.32.120 (Candidates' statements—Length) and section 32 of this act, 2004 c ... (Senate Bill No. 6417) s 12, 2003 c 254 s 6, 2003 c 111 s 812, & 1999 c 260 s 11;

(35) RCW 29A.32.240 (Contents) and 2003 c 111 s 816 & 1984 c 106 s 6;

(36) RCW 29A.36.010 (Certifying primary candidates) and section 33 of this act & 2003 c 111 s 901;

(37) RCW 29A.36.070 (Local measures—Ballot title—Formulation—Advertising) and section 34 of this act & 2003 c 111 s 907;

- (38) RCW 29A.36.100 (Names on primary ballot) and section 35 of this act, 2003 c 111 s 910, & 1990 c 59 s 93;
- (39) RCW 29A.36.110 (Uniformity, arrangement, contents required) and 2003 c 111 s 911;
- (40) RCW 29A.36.120 (Order of offices and issues—Party indication) and 2003 c 111 s 912;
- (41) RCW 29A.36.130 (Order of candidates on ballots) and 2003 c 111 s 913;
- (42) RCW 29A.36.140 (Primaries—Rotating names of candidates) and 2003 c 111 s 914;
- (43) RCW 29A.36.150 (Sample ballots) and 2003 c 111 s 915;
- (44) RCW 29A.36.160 (Arrangement of instructions, measures, offices—Order of candidates—Numbering of ballots) and 2003 c 111 s 916, 1990 c 59 s 13, 1986 c 167 s 11, 1982 c 121 s 1, & 1977 ex.s. c 361 s 60;
- (45) RCW 29A.36.170 (Nonpartisan candidates qualified for general election) and section 36 of this act, 2004 c ... (Senate Bill No. 6518) s 1, & 2003 c 111 s 917;
- (46) RCW 29A.36.200 (Names qualified to appear on election ballot) and section 37 of this act & 2003 c 111 s 920;
- (47) RCW 29A.40.060 (Issuance of ballot and other materials) and 2003 c 111 s 1006, 2001 c 241 s 6, & 1991 c 81 s 31;
- (48) RCW 29A.40.090 (Envelopes and instructions) and 2003 c 111 s 1009;
- (49) RCW 29A.44.200 (Issuing ballot to voter—Challenge) and 2003 c 111 s 1119, 1990 c 59 s 40, & 1965 c 9 s 29.51.050;
- (50) RCW 29A.44.220 (Casting vote) and 2003 c 111 s 1121, 1990 c 59 s 43, 1988 c 181 s 4, 1965 ex.s. c 101 s 15, & 1965 c 9 s 29.51.100;
- (51) RCW 29A.44.230 (Record of participation) and 2003 c 111 s 1122;
- (52) RCW 29A.52.010 (Elections to fill unexpired term—No primary, when) and section 38 of this act & 2003 c 111 s 1301;
- (53) RCW 29A.52.110 (Application of chapter) and section 39 of this act & 2003 c 111 s 1302;
- (54) RCW 29A.52.120 (General election laws govern primaries) and 2003 c 111 s 1303;
- (55) RCW 29A.52.230 (Nonpartisan offices specified) and section 41 of this act & 2003 c 111 s 1307;
- (56) RCW 29A.52.310 (Notice of primary) and 2003 c 111 s 1309 & 1965 c 9 s 29.27.030;
- (57) RCW 29A.52.320 (Certification of nominees) and section 42 of this act & 2003 c 111 s 1310;
- (58) RCW 29A.52.350 (Election—Certification of measures) and section 43 of this act, 2003 c 111 s 1313, 1999 c 4 s 1, 1984 c 106 s 12, 1980 c 35 s 8, & 1965 c 9 s 29.27.080;
- (59) RCW 29A.60.020 (Write-in voting—Declaration of candidacy—Counting of vote) and section 44 of this act & 2003 c 111 s 1502;
- (60) RCW 29A.60.220 (Tie in primary or final election) and section 45 of this act, 2003 c 111 s 1522, & 1965 c 9 s 29.62.080;
- (61) RCW 29A.64.010 (Application—Requirements—Application of chapter) and section 46 of this act, 2003 c 111 s 1601, 2001 c 225 s 3, 1987 c 54 s 3, 1977 ex.s. c 361 s 98, & 1965 c 9 s 29.64.010;

(62) RCW 29A.64.020 (Mandatory) and section 47 of this act & 2003 c 111 s 1602;

(63) RCW 29A.64.040 (Procedure—Observers—Request to stop) and section 48 of this act & 2003 c 111 s 1604;

(64) RCW 29A.64.060 (Amended abstracts) and section 49 of this act & 2003 c 111 s 1606;

(65) RCW 29A.64.080 (Expenses—Charges) and section 50 of this act & 2003 c 111 s 1608;

(66) RCW 29A.68.010 (Prevention and correction of election frauds and errors) and section 51 of this act & 2003 c 111 s 1701;

(67) RCW 29A.80.010 (Authority—Generally) and section 52 of this act, 2003 c 111 s 2001, 1977 ex.s. c 329 s 16, & 1965 c 9 s 29.42.010;

(68) RCW 29A.80.040 (Precinct committee officer, eligibility) and 2003 c 111 s 2004;

(69) RCW 29A.80.050 (Precinct committee officer—Election—Declaration of candidacy, fee—Term) and 2003 c 111 s 2005, 1991 c 363 s 34, 1987 c 295 s 14, 1973 c 4 s 7, 1967 ex.s. c 32 s 2, 1965 ex.s. c 103 s 3, & 1965 c 9 s 29.42.050;

(70) RCW 29A.80.060 (Legislative district chair—Election—Term—Removal) and 2003 c 111 s 2006, 1991 c 363 s 35, 1987 c 295 s 15, & 1967 ex.s. c 32 s 1;

(71) RCW 29A.84.260 (Petitions—Improperly signing) and section 53 of this act & 2003 c 111 s 2114;

(72) RCW 29A.84.310 (Candidacy declarations, nominating petitions) and section 54 of this act & 2003 c 111 s 2117;

(73) RCW 29A.84.710 (Documents regarding nomination, election, candidacy—Frauds and falsehoods) and section 55 of this act, 2003 c 111 s 2137, 1991 c 81 s 8, & 1965 c 9 s 29.85.100;

(74) Section 1 of this act;

(75) Section 2 of this act;

(76) Section 4 of this act;

(77) Section 28 of this act; and

(78) Section 40 of this act.

PART 3 - MISCELLANEOUS PROVISIONS

****NEW SECTION. Sec. 201. Sections 102 through 193 of this act take effect the June 1st following the secretary of state issuing a notification that no qualifying primary may be held in this state.***

*Sec. 201 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 202. The code reviser shall correct any internal references accordingly if sections 102 through 193 of this act take effect.

NEW SECTION. Sec. 203. Part headings used in this act are not any part of the law.

NEW SECTION. Sec. 204. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 205. Except for sections 102 through 193 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 10, 2004.

Passed by the House March 8, 2004.

Approved by the Governor April 1, 2004, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 1, 2004.

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

"I am returning herewith, without my approval as to sections 1 through 57, section 101 and section 201, Engrossed Senate Bill No. 6453 entitled:

"AN ACT Relating to a qualifying primary;"

This bill would create a so-called "modified blanket primary" in which each candidate would self-designate a political party of that candidate's choosing to appear with his or her name on the ballot, each voter could vote for any candidate listed on the resulting ballot, and the top two candidates receiving the most votes would advance to the general election with their political party self-designation. The bill would also provide as an alternative the "open primary/private choice" system, where voters choose among candidates of one political party in the primary, and where those choices are private.

At the outset, I must reiterate my extreme frustration and disappointment with the State Republican and Democratic parties for challenging the constitutionality of our blanket primary. The blanket primary has served our state well for almost seventy years. Nonetheless, as a result of the parties' action, the United States Court of Appeals for the Ninth Circuit has ruled that the blanket primary violates the First Amendment rights of the political parties, and the Supreme Court of the United States has chosen to let that decision stand as law. As Governor, I must respect both the letter and the spirit of the federal courts' rulings while ensuring that the state of Washington has an effective and constitutional replacement to the invalidated blanket primary in time for the September 14, 2004 primary election. As demonstrated by their actions and reflected in their deliberations, I know the Legislature and Secretary of State share my goal of ensuring we have a viable replacement for the blanket primary in time for the 2004 primary election.

The Legislature, in passing ESB 6453, knowingly forwarded to me two alternatives to the blanket primary system. Both alternatives are less than ideal, but for the reasons set forth below I am choosing the open primary/private choice system, which I believe better preserves voter choice in the general election, provides more certainty with regard to the state's authority to conduct the primary election, and presents less likelihood that our state's new primary system will be challenged in, or delayed or rewritten by, the federal courts.

During the legislative session, I consistently raised concerns about the "modified blanket primary," which would advance to the general election only the two candidates, regardless of party, who receive the most votes in the primary. I believe this option would frustrate many voters' expectations by removing from the general election the ability to choose from a list of candidates representing a broad political spectrum. The level of participation is almost twice as high in the general election than in the primary. In 1996, 1,043,000 more citizens participated in the general election than in the primary. In 2000, 1,197,000 more citizens participated in the general election than in the primary. In 2002, a year with no statewide races on the ballot other than judicial elections, 700,000 more citizens participated in the general election than in the primary. The scope of these voters' disenfranchisement in the general election would be enormous if they were forced to select from a ballot with no candidate representing either their preferred party or their general political views.

The modified blanket primary would also hurt the ability of minority and independent candidates to engage the electorate by effectively denying them access to the general election ballot. In 2000, for example, no fewer than eight political parties were represented on the general election ballot for statewide and legislative races, not including independent candidates. Minority parties bring diverse

perspectives to political debate and additional choice to voters. They should not be foreclosed from meaningful participation in the democratic process.

Moreover, I believe that adoption of the modified blanket primary would almost certainly result in major parties nominating their candidates through caucuses and embroiling the state in lengthy litigation over the use of party labels by candidates who have not been nominated according to party rules. The legislation as passed acknowledges doubts about the constitutionality of the modified blanket primary system by providing that if a court finds that candidates cannot use party labels unless nominated by the parties, then the state shall move to an open primary/private choice system, similar to that used in Montana. However, for a variety of reasons, including a requirement that all appeals be exhausted before this alternative may go into effect, the provision for triggering that contingency is fundamentally flawed.

Finally, there is a distinct likelihood that the political parties would promptly block the modified blanket primary in federal court. This year, next year, and until final judicial resolution, we would have a primary system written and imposed by the federal courts, and which does not respect our voters' desire for privacy. Our state deserves to have in place immediately a system that is one of the two alternative primary systems written and enacted by the Washington Legislature – not one written and imposed by the federal courts at the urging of the major political parties.

Because of these concerns, I am persuaded that the open primary/private choice alternative in the bill presented to me by the Legislature is the better — and more legally viable — alternative, and the one that we should implement without delay. Under this option, candidates qualify for the general election through a process in which voters are not required to register with a party, but choose among candidates of a single party, with their choice of ballot neither public information nor a public record. I believe this alternative protects voter privacy, offers voter choice consistent with the federal court ruling, and provides county auditors with a system that can be administered without undue complexity.

Section 205 expresses the intent of the Legislature that the adoption of a new primary system is necessary for the immediate preservation of the public peace, health, or safety, and the support of the state government and its existing public institutions; that enactment should take effect immediately, and that the new system should not be subject to being put on hold by referendum. I wholeheartedly concur. The integrity and smooth operation of our electoral processes are at the core of our democratic form of government. Indeed, men and women in uniform risk their lives daily to protect our democracy, and the public institutions that support that democracy.

Many public officials and concerned citizens have suggested that if no new primary system were put in place this legislative session, confusion as to election processes would occur in the fall. The Secretary of State has suggested that he would cancel the primary if a replacement law was not enacted or if the law was suspended because of referral to the general election ballot. In the September 2000 primary, more than 1.3 million voters expressed their preference as to which candidate should represent each party in the general election. With open seats for Governor, Attorney General and Congress, the primary election to determine which candidates appear on the general election ballot will likely draw even more voters. No elected official has any intention of creating a risk that more than a million voters will be denied the opportunity to have a public primary to determine the general election candidates. To the contrary, everyone involved in the legislative process for this bill has recognized the urgency of having a constitutional primary system in place for the September 14, 2004 primary, and the emergency nature of this legislation. Moreover, I am aware that county auditors need to know by early summer the laws they must implement so that they can prepare for the primary election this September. For these reasons, I agree with the Legislature that this bill should go into effect immediately and not be subject to being put on hold by referendum.

The emergency declaration in section 205 applies in these circumstances to the entire bill as I have signed it into law. Any other reading would thwart the manifest purpose of the Legislature and lead to an absurd result. Obviously, the reference to sections 102 through 193 was intended only to apply if the bill signed into law had multiple inconsistent primary systems. With my veto actions, however, this is not the case.

Some have urged me to veto section 205 to remove what they see as an ambiguous reference to sections 102 through 193, but doing so might create an unintended but more significant ambiguity with respect to whether an emergency need for a primary system exists. I have not done that because, as all of us involved in the legislative process for this bill recognize, assuring that the

primary system established by this bill takes effect for the upcoming September 14, 2004 primary is of utmost urgency to the public and democratic self-governance in our state.

Accordingly, I have left section 205 in the bill because the existing text and the circumstances in which this bill was enacted make it clear beyond reasonable dispute that the intent of all concerned was to have this bill's new primary system in place for the voters this September without risk of cancellation of this bill's primary due to any hold or delays caused by referendum.

For these reasons, I have vetoed sections 1 through 57, section 101 and section 201 of Engrossed Senate Bill No. 6453.

With the exception of sections 1 through 57, section 101, and section 201, Engrossed Senate Bill No. 6453 is approved."

CHAPTER 272

[Second Substitute Senate Bill 6599]
CHOLINESTERASE MONITORING

AN ACT Relating to required elements of cholinesterase monitoring programs for certain pesticide handlers; adding new sections to chapter 49.17 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 49.17 RCW to read as follows:

Employers whose employees receive medical monitoring under chapter 296-307 WAC, Part J-I, shall submit records to the department of labor and industries each month indicating the name of each worker tested, the number of hours that each worker handled covered pesticides during the thirty days prior to testing, and the number of hours that each worker handled covered pesticides during the current calendar year. The department of labor and industries shall work with the department of health to correlate this data with each employee's test results. No later than January 1, 2005, the department of labor and industries shall require employers to report this data to the physician or other licensed health care professional and department of health public health laboratory or other approved laboratory when each employee's cholinesterase test is taken. The department shall also require employers to provide each employee who receives medical monitoring with: (1) A copy of the data that the employer reports for that employee upon that employee's request; and (2) access to the records on which the employer's report is based.

NEW SECTION. Sec. 2. A new section is added to chapter 49.17 RCW to read as follows:

By January 1, 2005, January 1, 2006, and January 1, 2007, the department of labor and industries shall report the results of its data collection, correlation, and analysis related to cholinesterase monitoring to the house of representatives committees on agriculture and natural resources and commerce and labor, or their successor committees, and the senate committees on agriculture and commerce and trade, or their successor committees. These reports shall also identify any technical issues regarding the testing of cholinesterase levels or the administration of cholinesterase monitoring.

***NEW SECTION. Sec. 3.** A new section is added to chapter 49.17 RCW to read as follows:

As specified in any proviso relating to cholinesterase monitoring in the 2003-2005 omnibus operating appropriations act, the department shall make reasonable reimbursements on a quarterly basis.

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

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 10, 2004.

Passed by the House March 5, 2004.

Approved by the Governor April 1, 2004, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 1, 2004.

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

"I am returning herewith, without my approval as to section 3, Second Substitute Senate Bill No. 6599 entitled:

"AN ACT Relating to required elements of cholinesterase monitoring programs for certain pesticide handlers;"

Second Substitute Senate Bill No. 6599 requires the Department of Labor and Industries to collect, correlate, and analyze certain data related to cholinesterase tests.

Section 3 would have required the department to make reasonable reimbursements on a quarterly basis as specified in the operating budget. This section refers to an appropriation in the operating budget that is to be used to reimburse agricultural employers for training, travel, and record-keeping costs related to complying with the cholinesterase monitoring rule.

In order to directly reimburse employers, the department will have to create a new payment system. Section 3 dictates how the department should reimburse employers, thus limiting the agency's flexibility on the design of the new system. The agency may decide that it is more practical to reimburse monthly, biannually or annually. In any case, the department should have the flexibility to make this decision.

For these reasons, I have vetoed section 3 of Second Substitute Senate Bill No. 6599.

With the exception of section 3, Second Substitute Senate Bill No. 6599 is approved."

CHAPTER 273

[Third Substitute Senate Bill 5412]

IDENTITY THEFT—BIOMETRIC MATCHING SYSTEM

AN ACT Relating to identity theft penalties and prevention; amending RCW 9.35.020; adding new sections to chapter 46.20 RCW; creating new sections; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature finds that identity theft and the other types of fraud is a significant problem in the state of Washington, costing our citizens and businesses millions each year. The most common method of accomplishing identity theft and other fraudulent activity is by securing a fraudulently issued driver's license. It is the purpose of this act to significantly reduce identity theft and other fraud by preventing the fraudulent issuance of driver's licenses and identicards.

Sec. 2. RCW 9.35.020 and 2003 c 53 s 22 are each amended to read as follows:

(1) No person may knowingly obtain, possess, use, or transfer a means of identification or financial information of another person, living or dead, with the intent to commit, or to aid or abet, any crime.

(2) Violation of this section when the accused or an accomplice uses the victim's means of identification or financial information and obtains an aggregate total of credit, money, goods, services, or anything else of value in excess of one thousand five hundred dollars in value shall constitute identity theft in the first degree. Identity theft in the first degree is a class B felony punishable according to chapter 9A.20 RCW.

(3) Violation of this section when the accused or an accomplice uses the victim's means of identification or financial information and obtains an aggregate total of credit, money, goods, services, or anything else of value that is less than one thousand five hundred dollars in value, or when no credit, money, goods, services, or anything of value is obtained shall constitute identity theft in the second degree. Identity theft in the second degree is a class C felony punishable according to chapter 9A.20 RCW.

(4) A person who violates this section is liable for civil damages of (~~five hundred~~) one thousand dollars or actual damages, whichever is greater, including costs to repair the victim's credit record, and reasonable attorneys' fees as determined by the court.

(5) In a proceeding under this section, the crime will be considered to have been committed in any locality where the person whose means of identification or financial information was appropriated resides, or in which any part of the offense took place, regardless of whether the defendant was ever actually in that locality.

(6) The provisions of this section do not apply to any person who obtains another person's driver's license or other form of identification for the sole purpose of misrepresenting his or her age.

(7) In a proceeding under this section in which a person's means of identification or financial information was used without that person's authorization, and when there has been a conviction, the sentencing court may issue such orders as are necessary to correct a public record that contains false information resulting from a violation of this section.

NEW SECTION. Sec. 3. A new section is added to chapter 46.20 RCW to read as follows:

(1) No later than January 1, 2006, the department shall implement a voluntary biometric matching system for driver's licenses and identicards. The biometric matching system shall be used only to verify the identity of an applicant for a renewal or duplicate driver's license or identicard by matching a biometric identifier submitted by the applicant against the biometric identifier submitted when the license was last issued. This project requires a full review by the information services board using the criteria for projects of the highest visibility and risk.

(2) The biometric matching system selected by the department shall be capable of highly accurate matching, and shall be compliant with biometric standards established by the American association of motor vehicle administrators.

(3) The biometric matching system selected by the department must incorporate a process that allows the owner of a driver's license or identicard to present a personal identification number or other code along with the driver's license or identicard before the information may be verified by a third party.

(4) Upon the establishment of a biometric driver's license and identicard system as described in this section, the department shall allow every person applying for an original, renewal, or duplicate driver's license or identicard to voluntarily submit a biometric identifier. Each applicant shall be informed of all ways in which the biometric identifier may be used, all parties to whom the identifier may be disclosed and the conditions of disclosure, the expected error rates for the biometric matching system which shall be regularly updated as the technology changes or empirical data is collected, and the potential consequences of those errors. The department shall adopt rules to allow applicants to verify the accuracy of the system at the time that biometric information is submitted, including the use of at least two separate devices.

(5) The department may not disclose biometric information to the public or any governmental entity except when authorized by court order.

(6) All biometric information shall be stored with appropriate safeguards, including but not limited to encryption.

(7) The department shall develop procedures to handle instances in which the biometric matching system fails to verify the identity of an applicant for a renewal or duplicate driver's license or identicard. These procedures shall allow an applicant to prove identity without using a biometric identifier.

(8) Any person who has voluntarily submitted a biometric identifier may choose to discontinue participation in the biometric matching program at any time, provided that the department utilizes a secure procedure to prevent fraudulent requests for a renewal or duplicate driver's license or identicard. When the person discontinues participation, any previously collected biometric information shall be destroyed.

(9) If Engrossed Substitute Senate Bill No. 5428 or House Bill No. 1681 is enacted into law, this section does not apply when an applicant renews his or her driver's license or identicard by mail or electronic commerce.

NEW SECTION. Sec. 4. A new section is added to chapter 46.20 RCW to read as follows:

(1) The department is authorized to charge persons opting to submit a biometric identifier under section 3 of this act an additional fee of no more than two dollars at the time of application for an original, renewal, or duplicate driver's license or identicard issued by the department. This fee shall be used exclusively to defray the cost of implementation and ongoing operation of a biometric security system.

(2) The biometric security account is created in the state treasury. All receipts from subsection (1) of this section shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account must be used only for the purpose of defraying the cost of implementation and ongoing operation of a biometric security system.

NEW SECTION. Sec. 5. This act takes effect July 1, 2004.

NEW SECTION. Sec. 6. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2004,

in the omnibus transportation appropriations act, sections 1, 3, 4, and 5 of this act are null and void.

Passed by the Senate March 10, 2004.

Passed by the House March 5, 2004.

Approved by the Governor April 1, 2004.

Filed in Office of Secretary of State April 1, 2004.

CHAPTER 274

[Engrossed Substitute Senate Bill 6481]

HORSE RACING—PARIMUTUEL WAGERING

AN ACT Relating to governing class 1 racing associations' authority to participate in parimutuel wagering; amending RCW 67.16.200 and 67.16.160; adding a new section to chapter 67.16 RCW; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 67.16 RCW to read as follows:

(1) The horse racing commission may authorize advance deposit wagering to be conducted by:

(a) A licensed class 1 racing association operating a live horse racing facility; or

(b) The operator of an advance deposit wagering system accepting wagers pursuant to an agreement with a licensed class 1 racing association. The agreement between the operator and the class 1 racing association must be approved by the commission.

(2) An entity authorized to conduct advance deposit wagering under subsection (1) of this section:

(a) May accept advance deposit wagering for races conducted in this state under a class 1 license or races not conducted within this state on a schedule approved by the class 1 licensee. A system of advance deposit wagering located outside or within this state may not accept wagers from residents or other individuals located within this state, and residents or other individuals located within this state are prohibited from placing wagers through advance deposit wagering systems, except with an entity authorized to conduct advance deposit wagering under subsection (1) of this section;

(b) May not accept an account wager in an amount in excess of the funds on deposit in the advance deposit wagering account of the individual placing the wager;

(c) May not allow individuals under the age of twenty-one to open, own, or have access to an advance deposit wagering account;

(d) Must include a statement in all forms of advertising for advance deposit wagering that individuals under the age of twenty-one are not allowed to open, own, or have access to an advance deposit wagering account; and

(e) Must verify the identification, residence, and age of the advance deposit wagering account holder using methods and technologies approved by the commission.

(3) As used in this section, "advance deposit wagering" means a form of parimutuel wagering in which an individual deposits money in an account with an entity authorized by the commission to conduct advance deposit wagering

and then the account funds are used to pay for parimutuel wagers made in person, by telephone, or through communication by other electronic means.

(4) In order to participate in advance deposit wagering, the holder of a class 1 racing association license must have conducted at least one full live racing season. All class 1 racing associations must complete a live race meet within each succeeding twelve-month period to maintain eligibility to continue participating in advance deposit wagering.

(5) When more than one class 1 racing association is participating in advance deposit wagering the moneys paid to the racing associations shall be allocated proportionate to the gross amount of all sources of parimutuel wagering during each twelve-month period derived from the associations' live race meets. This percentage must be calculated annually. Revenue derived from advance deposit wagers placed on races conducted by the class 1 racing association shall all be allocated to that association.

(6) The commission shall adopt rules regulating advance deposit wagering.

(7) This section expires October 1, 2007.

Sec. 2. RCW 67.16.200 and 2001 1st sp.s. c 10 s 2 are each amended to read as follows:

(1) A class 1 racing association licensed by the commission to conduct a race meet may seek approval from the commission to conduct parimutuel wagering (~~(on its program)~~) at a satellite location or locations within the state of Washington. In order to participate in parimutuel wagering at a satellite location or locations within the state of Washington, the holder of a class 1 racing association license must have conducted at least one full live racing season. All class 1 racing associations must hold a live race meet within each succeeding twelve-month period to maintain eligibility to continue to participate in parimutuel wagering at a satellite location or locations. The sale of parimutuel pools at satellite locations shall be conducted (~~(only during the licensee's race meet and)~~) simultaneous to all parimutuel wagering activity conducted at the licensee's live racing facility in the state of Washington. The commission's authority to approve satellite wagering at a particular location is subject to the following limitations:

(a) The commission may approve only one satellite location in each county in the state; however, the commission may grant approval for more than one licensee to conduct wagering at each satellite location. A satellite location shall not be operated within twenty driving miles of any class 1 racing facility. For the purposes of this section, "driving miles" means miles measured by the most direct route as determined by the commission; and

(b) A licensee shall not conduct satellite wagering at any satellite location within sixty driving miles of any other racing facility conducting a live race meet.

(2) Subject to local zoning and other land use ordinances, the commission shall be the sole judge of whether approval to conduct wagering at a satellite location shall be granted.

(3) The licensee shall combine the parimutuel pools of the satellite location with those of the racing facility for the purpose of determining odds and computing payoffs. The amount wagered at the satellite location shall be combined with the amount wagered at the racing facility for the application of take out formulas and distribution as provided in RCW 67.16.102, 67.16.105,

67.16.170, and 67.16.175. A satellite extension of the licensee's racing facility shall be subject to the same application of the rules of racing as the licensee's racing facility.

(4) Upon written application to the commission, a class 1 racing association may be authorized to transmit simulcasts of live horse races conducted at its racetrack to locations outside of the state of Washington approved by the commission and in accordance with the interstate horse racing act of 1978 (15 U.S.C. Sec. 3001 to 3007) or any other applicable laws. The commission may permit parimutuel pools on the simulcast races to be combined in a common pool. A racing association that transmits simulcasts of its races to locations outside this state shall pay at least fifty percent of the fee that it receives for sale of the simulcast signal to the horsemen's purse account for its live races after first deducting the actual cost of sending the signal out of state.

(5) Upon written application to the commission, a class 1 racing association may be authorized to transmit simulcasts of live horse races conducted at its racetrack to licensed racing associations located within the state of Washington and approved by the commission for the receipt of the simulcasts. The commission shall permit parimutuel pools on the simulcast races to be combined in a common pool. The fee for in-state, track-to-track simulcasts shall be five and one-half percent of the gross parimutuel receipts generated at the receiving location and payable to the sending racing association. A racing association that transmits simulcasts of its races to other licensed racing associations shall pay at least fifty percent of the fee that it receives for the simulcast signal to the horsemen's purse account for its live race meet after first deducting the actual cost of sending the simulcast signal. A racing association that receives races simulcast from class 1 racing associations within the state shall pay at least fifty percent of its share of the parimutuel receipts to the horsemen's purse account for its live race meet after first deducting the purchase price and the actual direct costs of importing the race.

(6) A class 1 racing association may be allowed to import simulcasts of horse races from out-of-state racing facilities. With the prior approval of the commission, the class 1 racing association may participate in ~~((an interstate))~~ a multijurisdictional common pool and may change its commission and breakage rates to achieve a common rate with other participants in the common pool.

(a) The class 1 racing association shall make written application with the commission for permission to import simulcast horse races for the purpose of parimutuel wagering. Subject to the terms of this section, the commission is the sole authority in determining whether to grant approval for an imported simulcast race.

~~(b) ((A licensed racing association may also be approved to import one simulcast race of regional or national interest on each live race day.~~

~~(c) The commission may allow simulcast races of regional or national interest to be sent to satellite locations. The simulcasts shall be limited to one per day except for Breeder's Cup special events day.~~

~~(d))~~ When open for parimutuel wagering, a class 1 racing association which imports simulcast races shall also conduct simulcast parimutuel wagering within its licensed racing enclosure on all races simulcast from other class 1 racing associations within the state of Washington.

~~((e) The conduct of parimutuel wagering on imported simulcast races shall be for not more than fourteen hours during any twenty-four hour period, for not more than five days per week and only at the live racing facility of a class 1 racing association.~~

~~(f))~~ (c) On any imported simulcast race, the class 1 racing association shall pay fifty percent of its share of the parimutuel receipts to the horsemen's purse account for its live race meet after first deducting the purchase price of the imported race and the actual costs of importing and offering the race.

(7) For purposes of this section, a class 1 racing association is defined as a licensee approved by the commission to conduct during each twelve-month period at least forty days of live racing. If a live race day is canceled due to reasons directly attributable to acts of God, labor disruptions affecting live race days but not directly involving the licensee or its employees, or other circumstances that the commission decides are beyond the control of the class 1 racing association, then the canceled day counts toward the forty-day requirement. The commission may by rule increase the number of live racing days required to maintain class 1 racing association status or make other rules necessary to implement this section.

(8) This section does not establish a new form of gaming in Washington or allow expanded gaming within the state beyond what has been previously authorized. Simulcast wagering has been allowed in Washington before April 19, 1997. Therefore, this section does not allow gaming of any nature or scope that was prohibited before April 19, 1997. This section is necessary to protect the Washington equine breeding and racing industries, and in particular those sectors of these industries that are dependent upon live horse racing. The purpose of this section is to protect these industries from adverse economic impacts and to promote fan attendance at class 1 racing facilities. ~~((Therefore, imported simulcast race card programs shall not be disseminated to any location outside the live racing facility of the class 1 racing association and a class 1 racing association is strictly prohibited from simulcasting imported race card programs to any location outside its live racing facility.))~~ Therefore, a licensed class 1 racing association may be approved to disseminate imported simulcast race card programs to satellite locations approved under this section, provided that the class 1 racing association has conducted at least forty live racing days with an average on-track handle on the live racing product of a minimum of one hundred fifty thousand dollars per day during the twelve months immediately preceding the application date. However, to promote the development of a new class 1 racing association facility and to meet the best interests of the Washington equine breeding and racing industries, the commission may by rule reduce the required minimum average on-track handle on the live racing product from one hundred fifty thousand dollars per day to thirty thousand dollars per day.

(9) A licensee conducting simulcasting under this section shall place signs in the licensee's gambling establishment under RCW 9.46.071. The informational signs concerning problem and compulsive gambling must include a toll-free telephone number for problem and compulsive gamblers and be developed under RCW 9.46.071.

(10) Chapter 10, Laws of 2001 1st sp. sess. does not establish a new form of gaming in Washington or allow expanded gaming within the state beyond what

has been previously authorized. Simulcast wagering has been allowed in Washington before August 23, 2001. Therefore, this section does not allow gaming of any nature or scope that was prohibited before August 23, 2001. Chapter 10, Laws of 2001 1st sp. sess. is necessary to protect the Washington equine breeding and racing industries, and in particular those sectors of these industries that are dependent upon live horse racing. The purpose of chapter 10, Laws of 2001 1st sp. sess. is to protect these industries from adverse economic impacts and to promote fan attendance at class 1 racing facilities. ~~((Therefore, imported simulcast race card programs shall not be disseminated to any location outside the live racing facility of the class 1 racing association and a class 1 racing association is strictly prohibited from simulcasting imported race card programs to any location outside its live racing facility.~~

~~((11) If a state or federal court makes a finding that the increase in the number of imported simulcast races that may be authorized under chapter 10, Laws of 2001 1st sp. sess. is an expansion of gaming beyond that which is now allowed, chapter 10, Laws of 2001 1st sp. sess. is null and void.~~

~~((12) If any provision of chapter 10, Laws of 2001 1st sp. sess. or its application to any person or circumstance is held invalid, the remainder of chapter 10, Laws of 2001 1st sp. sess. or the application of the provision to other persons or circumstances is also invalid.))~~

Sec. 3. RCW 67.16.160 and 1994 c 154 s 314 are each amended to read as follows:

No later than ninety days after July 16, 1973, the horse racing commission shall ~~((promulgate))~~ adopt, pursuant to chapter 34.05 RCW, reasonable rules implementing to the extent applicable to the circumstances of the horse racing commission the conflict of interest laws of the state of Washington as set forth in ~~((chapters 42.21 and))~~ chapter 42.52 RCW. In no case may a commissioner make any wager on the outcome of a horse race at a race meet conducted under the authority of the commission.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 8, 2004.

Passed by the House March 3, 2004.

Approved by the Governor April 1, 2004.

Filed in Office of Secretary of State April 1, 2004.

CHAPTER 275

[Substitute House Bill 3103]

HIGHER EDUCATION

AN ACT Relating to higher education; amending RCW 28B.80.380, 28B.80.400, 28B.80.430, 28B.80.200, 28B.80.345, 28B.80.330, 28B.80.335, 28B.80.280, 28B.80.350, 28B.10.044, 28B.15.070, 28B.15.076, 28B.80.175, 28B.80.360, 28B.10.859, 28B.10.868, 28B.10.873, 28B.10.882, 28B.80.160, 28B.80.245, 28B.80.246, 28B.80.620, 28B.80.626, 28B.04.020, 28B.04.030, 28B.04.080, 28B.04.085, 28B.10.800, 28B.10.802, 28B.10.804, 28B.10.808, 28B.10.8081, 28B.10.810, 28B.10.816, 28B.10.818, 28B.10.820, 28B.10.822, 28B.10.790, 28B.10.650, 28A.600.110, 28B.10.020, 28B.10.050, 28B.15.543, 28B.15.545, 28B.15.910, 28B.20.130, 28B.30.150, 28B.35.120, 28B.38.010, 28B.40.120, 28B.50.090, 28B.50.140, 28B.95.020, 28B.119.010, 28C.04.545, 43.105.825, 43.157.010, 43.79.465, 28B.15.760,

28B.15.820, 28B.101.020, 28B.102.040, 28B.108.010, 28B.115.050, 28B.119.030, 28B.133.010, 28B.133.020, and 28B.133.050; adding a new section to chapter 28B.45 RCW; adding new chapters to Title 28B RCW; creating new sections; recodifying RCW 28B.80.300, 28B.80.310, 28B.80.390, 28B.80.400, 28B.80.410, 28B.80.420, 28B.80.110, 28B.80.430, 28B.80.380, 28B.80.200, 28B.80.370, 28B.80.345, 28B.80.330, 28B.80.335, 28B.80.280, 28B.80.350, 28B.10.044, 28B.15.070, 28B.15.076, 28B.80.175, 28B.80.240, 28B.80.210, 28B.80.230, 28B.80.180, 28B.80.360, 28B.10.859, 28B.10.866, 28B.10.867, 28B.10.868, 28B.10.869, 28B.10.870, 28B.10.871, 28B.10.872, 28B.10.873, 28B.10.880, 28B.10.881, 28B.10.882, 28B.10.883, 28B.10.884, 28B.10.885, 28B.10.886, 28B.80.150, 28B.80.160, 28B.80.170, 28B.80.245, 28B.80.246, 28B.80.272, 28B.80.805, 28B.80.806, 28B.80.807, 28B.80.620, 28B.80.622, 28B.80.624, 28B.80.626, 28B.80.810, 28B.10.800, 28B.10.801, 28B.10.802, 28B.10.804, 28B.10.806, 28B.10.808, 28B.10.8081, 28B.10.810, 28B.10.812, 28B.10.814, 28B.10.816, 28B.10.818, 28B.10.820, 28B.10.821, 28B.10.822, and 28B.80.510; repealing RCW 28B.10.210, 28B.10.215, 28B.10.220, 28B.10.824, 28B.10.874, 28B.10.887, 28B.80.255, 28B.80.265, 28B.80.290, 28B.80.320, 28B.80.340, 28B.80.440, 28B.80.442, 28B.80.450, 28B.80.500, 28B.80.520, 28B.80.600, 28B.80.610, 28B.80.612, 28B.80.614, 28B.80.616, 28B.80.910, 28B.80.911, 28B.80.912, 28A.305.280, and 28A.305.285; providing an effective date; and providing an expiration date.

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

PART I GENERAL PROVISIONS

NEW SECTION. Sec. 1. The purpose of the board is to:

(1) Develop a statewide strategic master plan for higher education and continually monitor state and institution progress in meeting the vision, goals, priorities, and strategies articulated in the plan;

(2) Based on objective data analysis, develop and recommend statewide policies to enhance the availability, quality, efficiency, and accountability of public higher education in Washington state;

(3) Administer state and federal financial aid and other education services programs in a cost-effective manner;

(4) Serve as an advocate on behalf of students and the overall system of higher education to the governor, the legislature, and the public;

(5) Represent the broad public interest above the interests of the individual colleges and universities; and

(6) Coordinate with the governing boards of the two and four-year institutions of higher education, the state board for community and technical colleges, the work force training and education coordinating board, and the superintendent of public instruction to create a seamless system of public education for the citizens of Washington state geared toward student success.

Sec. 2. RCW 28B.80.380 and 1985 c 370 s 9 are each amended to read as follows:

~~(The board shall establish advisory committees composed of members representing faculty, administrators, students, regents and trustees, and staff of the public institutions, the superintendent of public instruction, and the independent institutions.)~~ (1) The board shall establish an advisory council consisting of: The superintendent of public instruction; a representative of the state board of education appointed by the state board of education; a representative of the two-year system of the state board for community and technical colleges appointed by the state board for community and technical colleges; a representative of the work force training and education coordinating

board appointed by the work force training and education coordinating board; one representative of the research universities appointed by the president of the University of Washington and the president of Washington State University; a representative of the regional universities and The Evergreen State College appointed through a process developed by the council of presidents; a representative of the faculty for the four-year institutions appointed by the council of faculty representatives; a representative of the proprietary schools appointed by the federation of private career schools and colleges; a representative of the independent colleges appointed by the independent colleges of Washington; and a faculty member in the community and technical college system appointed by the state board for community and technical colleges in consultation with the faculty unions.

(2) The members of the advisory council shall each serve a two-year term except for the superintendent of public instruction, whose term is concurrent with his or her term of office.

(3) The board shall meet with the advisory council at least quarterly and shall seek advice from the council regarding the board's discharge of its statutory responsibilities.

Sec. 3. RCW 28B.80.400 and 2002 c 129 s 2 are each amended to read as follows:

The members of the board, except the chair serving on June 13, 2002, and the student member, shall serve for terms of four years, the terms expiring on June 30th of the fourth year of the term except that in the case of initial members, two shall be appointed to two-year terms, three shall be appointed to three-year terms, and three shall be appointed to four-year terms. The student member shall hold his or her office for a term of one year from the first day of July. The chair serving on June 13, 2002, shall serve at the pleasure of the governor.

Sec. 4. RCW 28B.80.430 and 1987 c 330 s 301 are each amended to read as follows:

The board shall employ a director and may delegate agency management to the director. The director shall serve at the pleasure of the board, shall be the executive officer of the board, and shall, under the board's supervision, administer the provisions of this chapter. The executive director shall, with the approval of the board: (1) Employ necessary deputy and assistant directors and other exempt staff under chapter ~~((28B.16))~~ 41.06 RCW who shall serve at his or her pleasure on such terms and conditions as he or she determines and (2) subject to the provisions of chapter ~~((28B.16))~~ 41.06 RCW, appoint and employ such other employees as may be required for the proper discharge of the functions of the board. The executive director shall exercise such additional powers, other than rule making, as may be delegated by the board by resolution. In fulfilling the duties under this chapter, the board shall make extensive use of those state agencies with responsibility for implementing and supporting postsecondary education plans and policies including but not limited to appropriate legislative groups, the postsecondary education institutions, the office of financial management, the ~~((commission for vocational education))~~ work force training and education coordinating board, and the state board for community ~~((college education))~~ and technical colleges. Outside consulting and

service agencies may also be employed. The board may compensate these groups and consultants in appropriate ways.

Sec. 5. RCW 28B.80.200 and 1985 c 370 s 20 are each amended to read as follows:

The higher education coordinating board is designated as the state commission as provided for in Section 1202 of the education amendments of 1972 (Public Law 92-318), as now or hereafter amended; and shall perform such functions as is necessary to comply with federal directives pertaining to the provisions of such law(~~(- PROVIDED, That notwithstanding the provisions of RCW 28B.80.050, all members of the board shall have full voting powers in taking actions related to federal postsecondary educational planning functions as provided for in this section and RCW 28B.80.210 through 28B.80.240)).~~)).

PART II POLICY AND PLANNING

Sec. 6. RCW 28B.80.345 and 2003 c 130 s 2 are each amended to read as follows:

(1) The board shall develop a statewide strategic master plan for higher education that proposes a vision and identifies goals and priorities for the system of higher education in Washington state. The plan shall encompass all sectors of higher education, including the two-year system, work force training, the four-year institutions, and financial aid. The board shall also specify strategies for maintaining and expanding access, affordability, quality, efficiency, and accountability among the various institutions of higher education.

(2) In developing the statewide strategic master plan for higher education, the board shall collaborate with the four-year institutions of higher education including the council of presidents, the community and technical college system, and, when appropriate, the work force training and education coordinating board, the superintendent of public instruction, and the independent higher education institutions. The board shall identify and utilize models of regional planning and decision making before initiating a statewide planning process. The board shall also seek input from students, faculty organizations, community and business leaders in the state, members of the legislature, and the governor.

(3) As a foundation for the statewide strategic master plan for higher education, the board shall (~~(develop and establish))~~ review role and mission statements for each of the four-year institutions of higher education and the community and technical college system. (~~(The board shall determine whether certain major lines of study or types of degrees, including applied degrees or research-oriented degrees, shall be assigned uniquely to some institutions or institutional sectors in order to create centers of excellence that focus resources and expertise))~~ The purpose of the review is to ensure institutional roles and missions are aligned with the overall state vision and priorities for higher education.

(4) In assessing needs of the state's higher education system, the board may consider and analyze the following information:

(a) Demographic, social, economic, and technological trends and their impact on service delivery;

(b) The changing ethnic composition of the population and the special needs arising from those trends;

(c) Business and industrial needs for a skilled work force;

(d) College attendance, retention, transfer, and dropout rates;

(e) Needs and demands for basic and continuing education and opportunities for lifelong learning by individuals of all age groups; and

(f) Needs and demands for access to higher education by placebound students and individuals in heavily populated areas underserved by public institutions.

(5) The statewide strategic master plan for higher education shall include, but not be limited to, the following:

(a) Recommendations based on enrollment forecasts and analysis of data about demand for higher education, and policies and actions to meet those needs;

(b) State or regional priorities for new or expanded degree programs or off-campus programs, including what models of service delivery may be most cost-effective;

(c) Recommended policies or actions to improve the efficiency of student transfer and graduation or completion;

(d) State or regional priorities for addressing needs in high-demand fields where enrollment access is limited and employers are experiencing difficulty finding enough qualified graduates to fill job openings;

(e) Recommended tuition and fees policies and levels; and

(f) Priorities and recommendations on financial aid.

(6) The board shall present the vision, goals, priorities, and strategies in the statewide strategic master plan for higher education in a way that provides guidance for institutions, the governor, and the legislature to make further decisions regarding institution-level plans, policies, legislation, and operating and capital funding for higher education. In the statewide strategic master plan for higher education, the board shall recommend specific actions to be taken and identify measurable performance indicators and benchmarks for gauging progress toward achieving the goals and priorities.

(7) Every four years by December 15th, beginning December 15, 2003, the board shall submit an interim statewide strategic master plan for higher education to the governor and the legislature. The interim plan shall reflect the expectations and policy directions of the legislative higher education and fiscal committees, and shall provide a timely and relevant framework for the development of future budgets and policy proposals. The legislature shall, by concurrent resolution, approve or recommend changes to the interim plan, following public hearings. The board shall submit the final plan, incorporating legislative changes, to the governor and the legislature by June of the year in which the legislature approves the concurrent resolution. The plan shall then become state higher education policy unless legislation is enacted to alter the policies set forth in the plan. The board shall report annually to the governor and the legislature on the progress being made by the institutions of higher education and the state to implement the strategic master plan.

(8) Each four-year institution shall develop an institution-level strategic plan that implements the vision, goals, priorities, and strategies within the statewide strategic master plan for higher education based on the institution's role and mission. Institutional strategic plans shall also contain measurable performance

indicators and benchmarks for gauging progress toward achieving the goals and priorities. The board shall review the institution-level plans to ensure the plans are aligned with and implement the statewide strategic master plan for higher education and shall periodically monitor institutions' progress toward achieving the goals and priorities within their plans.

(9) The board shall also review the comprehensive master plan prepared by the state board for community and technical colleges for the community and technical college system under RCW 28B.50.090 to ensure the plan is aligned with and implements the statewide strategic master plan for higher education.

Sec. 7. RCW 28B.80.330 and 2003 c 130 s 3 are each amended to read as follows:

~~(1) The board shall ((perform the following planning duties in consultation)) collaborate with the four-year institutions including the council of presidents, the community and technical college system, and when appropriate the work force training and education coordinating board, the superintendent of public instruction, and the independent higher educational institutions(;~~

~~(1) Review, evaluate, and make recommendations on operating and capital budget requests from four-year institutions and the community and technical college system, based on how the budget requests align with and implement the statewide strategic master plan for higher education under RCW 28B.80.345;~~

~~(a)) to identify budget priorities and levels of funding for higher education, including the two and four-year institutions of higher education and state financial aid programs. It is the intent of the legislature that recommendations from the board reflect not merely the sum of budget requests from multiple institutions, but prioritized funding needs for the overall system of higher education.~~

(2) By December of each odd-numbered year, the board shall distribute guidelines which outline the board's fiscal priorities to the institutions and the state board for community and technical colleges. The institutions and the state board for community and technical colleges shall submit an outline of their proposed budgets, identifying major components, to the board no later than August 1st of each even-numbered year.

~~(3) The board shall review and evaluate the operating and capital budget requests from four-year institutions and the community and technical college system based on how the requests align with the board's budget priorities, the missions of the institutions, and the statewide strategic master plan for higher education under RCW 28B.80.345 (as recodified by this act).~~

(4) The board shall submit recommendations on the proposed budgets and on the board's budget priorities to the office of financial management before November 1st of each even-numbered year, and to the legislature by January 1st of each odd-numbered year(;

~~(b)).~~

(5) Institutions and the state board for community and technical colleges shall submit any supplemental budget requests and revisions to the board at the same time they are submitted to the office of financial management. The board shall submit recommendations on the proposed supplemental budget requests to the office of financial management by November 1st and to the legislature by January 1st(;

~~(2) Recommend legislation affecting higher education;~~

~~(3) Prepare recommendations on merging or closing institutions; and
(4) Develop criteria for identifying the need for new baccalaureate institutions).~~

Sec. 8. RCW 28B.80.335 and 2003 1st sp.s. c 8 s 2 are each amended to read as follows:

(1) Beginning with the 2005-2007 biennial capital budget submittal, the public four-year institutions, in consultation with the council of presidents and the higher education coordinating board, shall prepare a single prioritized individual ranking of the individual projects proposed by the four-year institutions as provided in subsection (2) of this section. The public four-year institutions may aggregate minor works project requests into priority categories without separately ranking each minor project, provided that these aggregated minor works requests are ranked within the overall list. For repairs and improvements to existing facilities and systems, the rating and ranking of individual projects must be based on criteria or factors that include, but are not limited to, the age and condition of buildings or systems, the programmatic suitability of the building or system, and the activity/occupancy level supported by the building or system. For projects creating new space or capacity, the ratings and rankings of projects must be based upon criteria or factors that include, but are not limited to, measuring existing capacity and progress toward meeting increased space utilization levels as determined by the higher education coordinating board.

(2) The single prioritized four-year project list shall be approved by the governing boards of each public four-year institution and shall be submitted to the office of financial management and the higher education coordinating board concurrent with the institution's submittal of their biennial capital budget requests.

(3)(a) The higher education coordinating board, in consultation with the office of financial management and the joint legislative audit and review committee, shall develop common definitions that public four-year institutions and the state board for community and technical colleges shall use in developing their project lists under this section.

(b) As part of its duties under RCW 28B.80.330(~~((4))~~) (as recodified by this act), the higher education coordinating board shall, as part of its biennial budget guidelines, disseminate, by December 1st of each odd-numbered year, the criteria framework, including general definitions, categories, and rating system, to be used by the public four-year institutions in the development of the prioritized four-year project list. The criteria framework shall specify the general priority order of project types based on criteria determined by the board, in consultation with the public four-year institutions.

(c) Under RCW 28B.80.330(~~((4))~~) (as recodified by this act), the public four-year institutions shall submit a preliminary prioritized four-year project list to the higher education coordinating board by August 1st of each even-numbered year.

(d) The state board for community and technical colleges shall, as part of its biennial capital budget request, submit a single prioritized ranking of the individual projects proposed for the community and technical colleges. The state board for community and technical colleges shall submit an outline of the prioritized community and technical college project list to the higher education

coordinating board under RCW 28B.80.330((4)) (as recodified by this act) by August 1st of each even-numbered year.

(4) The higher education coordinating board, in consultation with the public four-year institutions, shall resolve any disputes or disagreements arising among the four-year institutions concerning the ranking of particular projects. Further, should one or more governing boards of the public four-year institutions fail to approve the prioritized four-year project list as required in this section, or should a prioritized project list not be submitted by the public four-year institutions concurrent with the submittal of their respective biennial capital budget requests as provided in subsection (2) of this section, the higher education coordinating board shall prepare the prioritized four-year institution project list itself.

(5) In developing any rating and ranking of capital projects proposed by the two-year and four-year public universities and colleges, the board:

(a) Shall be provided with available information by the public two-year and four-year institutions as deemed necessary by the board;

(b) May utilize independent services to verify, sample, or evaluate information provided to the board by the two-year and four-year institutions; and

(c) Shall have full access to all data maintained by the office of financial management and the joint legislative audit and review committee concerning the condition of higher education facilities.

(6) Beginning with the 2005-2007 biennial capital budget submittal, the higher education coordinating board shall, in consultation with the state board for community and technical colleges and four-year colleges and universities, submit its capital budget recommendations and the separate two-year and four-year prioritized project lists.

NEW SECTION. Sec. 9. (1) The board shall develop a comprehensive and ongoing assessment process to analyze the need for additional degrees and programs, additional off-campus centers and locations for degree programs, and consolidation or elimination of programs by the four-year institutions.

(2) As part of the needs assessment process, the board shall examine:

(a) Projections of student, employer, and community demand for education and degrees, including liberal arts degrees, on a regional and statewide basis;

(b) Current and projected degree programs and enrollment at public and private institutions of higher education, by location and mode of service delivery; and

(c) Data from the work force training and education coordinating board and the state board for community and technical colleges on the supply and demand for work force education and certificates and associate degrees.

(3) Every two years the board shall produce, jointly with the state board for community and technical colleges and the work force training and education coordinating board, an assessment of the number and type of higher education and training credentials required to match employer demand for a skilled and educated work force. The assessment shall include the number of forecasted net job openings at each level of higher education and training and the number of credentials needed to match the forecast of net job openings.

(4) The board shall determine whether certain major lines of study or types of degrees, including applied degrees or research-oriented degrees, shall be assigned uniquely to some institutions or institutional sectors in order to create centers of excellence that focus resources and expertise.

(5) The following activities are subject to approval by the board:

- (a) New degree programs by a four-year institution;
- (b) Creation of any off-campus program by a four-year institution;
- (c) Purchase or lease of major off-campus facilities by a four-year institution or a community or technical college;
- (d) Creation of higher education centers and consortia; and
- (e) New degree programs and creation of off-campus programs by an independent college or university in collaboration with a community or technical college.

(6) Institutions seeking board approval under this section must demonstrate that the proposal is justified by the needs assessment developed under this section. Institutions must also demonstrate how the proposals align with or implement the statewide strategic master plan for higher education under RCW 28B.80.345 (as recodified by this act).

(7) The board shall develop clear guidelines and objective decision-making criteria regarding approval of proposals under this section, which must include review and consultation with the institution and other interested agencies and individuals.

(8) The board shall periodically recommend consolidation or elimination of programs at the four-year institutions, based on the needs assessment analysis.

Sec. 10. RCW 28B.80.280 and 1998 c 245 s 23 are each amended to read as follows:

The board shall ~~((, in cooperation with the state institutions of higher education and the state board for community and technical colleges, establish and maintain a statewide transfer of credit policy and agreement. The policy and agreement shall, where feasible, include course and program descriptions consistent with statewide interinstitutional guidelines))~~ adopt statewide transfer and articulation policies that ensure efficient transfer of credits and courses across public two and four-year institutions of higher education. The intent of the policies is to create a statewide system of articulation and alignment between two and four-year institutions. Policies may address but are not limited to creation of a statewide system of course equivalency, creation of transfer associate degrees, statewide articulation agreements, applicability of technical courses toward baccalaureate degrees, and other issues. The institutions of higher education and the state board for community and technical colleges shall cooperate with the board in developing the statewide policies and shall provide support and staff resources as necessary to assist in ~~((developing and))~~ maintaining ~~((this policy and agreement. The statewide transfer of credit policy and agreement shall be effective beginning with the 1985-86 academic year))~~ the policies. The board shall submit a progress report to the higher education committees of the senate and house of representatives by December 1, 2006, by which time the legislature expects measurable improvement in alignment and transfer efficiency.

NEW SECTION. Sec. 11. (1) The board shall establish an accountability monitoring and reporting system as part of a continuing effort to make meaningful and substantial progress towards the achievement of long-term performance goals in higher education.

(2) Based on guidelines prepared by the board, each four-year institution and the state board for community and technical colleges shall submit a biennial plan to achieve measurable and specific improvements each academic year on statewide and institution-specific performance measures. Plans shall be submitted to the board along with the biennial budget requests from the institutions and the state board for community and technical colleges. Performance measures established for the community and technical colleges shall reflect the role and mission of the colleges.

(3) The board shall approve biennial performance targets for each four-year institution and for the community and technical college system and shall review actual achievements annually. The state board for community and technical colleges shall set biennial performance targets for each college or district, where appropriate.

(4) The board shall submit a report on progress towards the statewide goals, with recommendations for the ensuing biennium, to the fiscal and higher education committees of the legislature along with the board's biennial budget recommendations.

(5) The board, in collaboration with the four-year institutions and the state board for community and technical colleges, shall periodically review and update the accountability monitoring and reporting system.

(6) The board shall develop measurable indicators and benchmarks for its own performance regarding cost, quantity, quality, and timeliness and including the performance of committees and advisory groups convened under this chapter to accomplish such tasks as improving transfer and articulation, improving articulation with the K-12 education system, measuring educational costs, or developing data protocols. The board shall submit its accountability plan to the legislature concurrently with the biennial report on institution progress.

NEW SECTION. Sec. 12. (1) In consultation with the institutions of higher education and state education agencies, the board shall identify the data needed to carry out its responsibilities for policy analysis, accountability, program improvements, and public information. The primary goals of the board's data collection and research are to describe how students and other beneficiaries of higher education are being served; to support higher education accountability; and to assist state policymakers and institutions in making policy decisions.

(2) The board shall convene a research advisory group and shall collaborate with the group to identify the most cost-effective manner for the board to collect data or access existing data. The board shall work with the advisory group to develop research priorities, policies, and common definitions to maximize the reliability and consistency of data across institutions. The advisory group shall include representatives of public and independent higher education institutions and other state agencies, including the state board for community and technical colleges, the office of the superintendent of public instruction, the office of financial management, the employment security department, the work force training and education coordinating board, and other agencies as appropriate.

(3) Specific protocols shall be developed by the board and the advisory group to protect the privacy of individual student records while ensuring the availability of student data for legitimate research purposes.

*Sec. 13. RCW 28B.80.350 and 1993 c 77 s 2 are each amended to read as follows:

~~The board shall ((coordinate educational activities among all segments of higher education taking into account the educational programs, facilities, and other resources of both public and independent two and four-year colleges and universities. The four-year institutions and the state board for community and technical colleges shall coordinate information and activities with the board. The board shall)) have the following additional policy responsibilities:~~

~~(1) ((Promote interinstitutional cooperation))~~ Perform periodic analyses of tuition, financial aid, faculty compensation, institution funding levels, enrollment, and other policy issues and provide reports to the governor and the legislature;

~~(2) Establish minimum admission standards for four-year institutions, including a requirement that coursework in American sign language or an American Indian language shall satisfy any requirement for instruction in a language other than English that the board or the institutions may establish as a general undergraduate admissions requirement;~~

~~(3) ((Establish transfer policies;~~

~~(4)) Adopt rules implementing statutory residency requirements;~~

~~((5) Develop and administer reciprocity agreements with bordering states and the province of British Columbia;~~

~~(6) Review and recommend compensation practices and levels for administrative employees, exempt under chapter 28B.16 RCW, and faculty using comparative data from peer institutions;~~

~~(7) Monitor higher education activities for compliance with all relevant state policies for higher education;~~

~~(8) Arbitrate disputes between and among four-year institutions or between and among four-year institutions and community colleges at the request of one or more of the institutions involved, or at the request of the governor, or from a resolution adopted by the legislature. The decision of the board shall be binding on the participants in the dispute;~~

~~(9) Establish and implement a state system for collecting, analyzing, and distributing information;~~

~~(10) Recommend to the governor and the legislature ways to remove any economic incentives to use off-campus program funds for on-campus activities; and~~

~~(11))~~ (4) Make recommendations to increase minority participation, and monitor and report on the progress of minority participation in higher education;

(5) In cooperation with the institutions of higher education, highlight and promote innovative programs to improve the quality of instruction, promote local and regional economic development, and enhance efficiency in higher education;

(6) Manage competitive processes for awarding high demand enrollments authorized by the legislature. Public baccalaureate institutions and private independent institutions are eligible to apply for funding and may submit proposals; and

(7) Recommend legislation affecting higher education.

*Sec. 13 was vetoed. See message at end of chapter.

Sec. 14. RCW 28B.10.044 and 1997 c 48 s 1 are each amended to read as follows:

(1) The ~~((higher education coordinating))~~ board shall annually develop information on the approximate amount of state support that students receive. For students at state-supported colleges and universities, the information shall include the approximate level of support received by students in each tuition category. That information may include consideration of the following: Expenditures included in the educational cost formula, revenue forgiven from waived tuition and fees, state-funded financial aid awarded to students at public institutions, and all or a portion of appropriated amounts not reflected in the educational cost formula for institutional programs and services that may affect or enhance the educational experience of students at a particular institution. For students attending a private college, university, or proprietary school, the information shall include the amount of state-funded financial aid awarded to students attending the institution.

(2) Beginning July 30, 1993, the board shall annually provide information appropriate to each institution's student body to each state-supported four-year institution of higher education and to the state board for community and technical colleges for distribution to community colleges and technical colleges:

(3) Beginning July 30, 1993, the board shall annually provide information on the level of financial aid received by students at that institution to each private university, college, or proprietary school, that enrolls students receiving state-funded financial aid.

(4) Beginning with the 1997 fall academic term, each institution of higher education described in subsection (2) or (3) of this section shall provide to students at the institution information on the approximate amount that the state is contributing to the support of their education. Information provided to students at each state-supported college and university shall include the approximate amount of state support received by students in each tuition category at that institution. The amount of state support shall be based on the information provided by the ~~((higher education coordinating))~~ board under subsections (1) through (3) of this section. The information shall be provided to students at the beginning of each academic term through one or more of the following: Registration materials, class schedules, tuition and fee billing packets, student newspapers, or via e-mail or kiosk.

Sec. 15. RCW 28B.15.070 and 1995 1st sp.s. c 9 s 7 are each amended to read as follows:

(1) The ~~((higher education coordinating))~~ board, in consultation with the house of representatives and senate committees responsible for higher education, the respective fiscal committees of the house of representatives and senate, the office of financial management, the state board for community and technical colleges, and the state institutions of higher education, shall develop ~~((by December of every fourth year beginning in 1989, definitions, criteria, and procedures for determining))~~ standardized methods and protocols for measuring the undergraduate and graduate educational costs for the state universities, regional universities, and community colleges, including but not limited to the costs of instruction, costs to provide degrees in specific fields, and costs for precollege remediation.

~~(2) ((Every four years, the state institutions of higher education in cooperation with the higher education coordinating board shall perform an educational cost study pursuant to subsection (1) of this section. The study shall be conducted based on every fourth academic year beginning with 1989-90. Institutions shall complete the studies within one year of the end of the study year and report the results to the higher education coordinating board for consolidation, review, and distribution.))~~ By December 1, 2004, the board must propose a schedule of regular cost study reports intended to meet the information needs of the governor's office and the legislature and the requirements of RCW 28B.10.044 and submit the proposed schedule to the higher education and fiscal committees of the house of representatives and the senate for their review.

~~(3) ((In order to conduct the study required by subsection (2) of this section, the higher education coordinating board, in cooperation with))~~ The institutions of higher education~~((, shall develop a methodology that requires the collection of comparable educational cost data, which utilizes a faculty activity analysis or similar instrument))~~ shall participate in the development of cost study methods and shall provide all necessary data in a timely fashion consistent with the protocols developed.

Sec. 16. RCW 28B.15.076 and 1995 1st sp.s. c 9 s 6 are each amended to read as follows:

~~The ((higher education coordinating))~~ board shall determine and transmit amounts constituting approved undergraduate and graduate educational costs to the several boards of regents and trustees of the state institutions of higher education by November 10 of each even-numbered year ~~((except the year 1990 for which the transmittal shall be made by December 17)).~~

Sec. 17. RCW 28B.80.175 and 1994 c 222 s 3 are each amended to read as follows:

The higher education coordinating board shall work with the state board of education ((to establish the task force under RCW 28A.305.285)), the superintendent of public instruction, the state board for community and technical colleges, the work force training and education coordinating board, two and four-year institutions of higher education, and school districts to improve coordination, articulation, and transitions among the state's systems of education. The goal of improved coordination is increased student success. Topics to address include: Expansion of dual enrollment options for students; articulation agreements between institutions of higher education and high schools; improved alignment of high school preparatory curriculum and college readiness. The board, in conjunction with the other education agencies, shall submit a biennial update on the work accomplished and planned under this section to the education and higher education committees of the legislature, beginning January 15, 2005.

PART III EDUCATION SERVICES ADMINISTRATION

Sec. 18. RCW 28B.80.360 and 1998 c 245 s 24 are each amended to read as follows:

~~((The board shall perform the following administrative responsibilities:~~

(4)) In addition to administrative responsibilities assigned in this chapter, the board shall administer the programs set forth in the following statutes: RCW 28A.600.100 through 28A.600.150 (Washington scholars); (~~chapter 28B.04 RCW (displaced homemakers);~~) chapter 28B.85 RCW (degree-granting institutions); (~~RCW 28B.10.210 through 28B.10.220 (blind students subsidy); RCW 28B.10.800 through 28B.10.824 (student financial aid program)~~) chapter 28B.— RCW (as created in section 78 of this act) (state need grant); chapter 28B.12 RCW (work study); (~~RCW 28B.15.067 (establishing tuition and fees);~~) RCW 28B.15.543 (tuition waivers for Washington scholars); RCW 28B.15.760 through 28B.15.766 (math and science loans); (~~RCW 28B.80.150 through 28B.80.170 (student exchange compact); RCW 28B.80.240 (student aid programs); and RCW 28B.80.210 (federal programs).~~

(2) Study the delegation of the administration of the following: RCW 28B.65.040 through 28B.65.060 (high technology board); chapter 28B.85 RCW (degree-granting institutions); RCW 28B.80.150 through 28B.80.170 (student exchange compact programs); RCW 28B.80.200 (state commission for federal law purposes); RCW 28B.80.210 (enumerated federal programs); RCW 28B.80.230 (receipt of federal funds); RCW 28B.80.240 (student financial aid programs); RCW 28A.600.120 through 28A.600.150 (Washington scholars); RCW 28B.15.543 (Washington scholars); RCW 28B.04.020 through 28B.04.110 (displaced homemakers); RCW 28B.10.215 and 28B.10.220 (blind students); RCW 28B.10.790, 28B.10.792, and 28B.10.802 through 28B.10.844 (student financial aid); RCW 28B.12.040 through 28B.12.070 (student work study);) RCW 28B.15.100 (reciprocity agreement); RCW 28B.15.730 through 28B.15.736 (Oregon reciprocity); RCW 28B.15.750 through 28B.15.754 (Idaho reciprocity); RCW 28B.15.756 and 28B.15.758 (British Columbia reciprocity); (~~and RCW 28B.15.760 through 28B.15.764 (math/science loans)~~) chapter 28B.101 RCW (educational opportunity grant); chapter 28B.102 RCW (future teachers conditional scholarship); chapter 28B.108 RCW (American Indian endowed scholarship); chapter 28B.109 RCW (Washington international exchange scholarship); chapter 28B.115 RCW (health professional conditional scholarship); chapter 28B.119 RCW (Washington promise scholarship); and chapter 28B.133 RCW (gaining independence for students with dependents).

Sec. 19. RCW 28B.10.859 and 1989 c 187 s 1 are each amended to read as follows:

For the purposes of RCW 28B.10.866 through 28B.10.873 (as recodified by this act), "private donation" includes assessments by commodity commissions authorized to conduct research activities including but not limited to research studies authorized under RCW 15.66.030 and 15.65.040.

Sec. 20. RCW 28B.10.868 and 1991 sp.s. c 13 s 99 are each amended to read as follows:

Funds appropriated by the legislature for the distinguished professorship program shall be deposited in the distinguished professorship trust fund. At the request of the higher education coordinating board under RCW 28B.10.870 (as recodified by this act), the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is required for expenditures from the fund.

Sec. 21. RCW 28B.10.873 and 1987 c 8 s 8 are each amended to read as follows:

A distinguished professorship program established under chapter 343, Laws of 1985 shall continue to operate under RCW 28B.10.866 through 28B.10.872 (as recodified by this act) and the requirements of RCW 28B.10.866 through 28B.10.872 (as recodified by this act) shall apply.

Sec. 22. RCW 28B.10.882 and 1991 sp.s. c 13 s 88 are each amended to read as follows:

Funds appropriated by the legislature for the graduate fellowship program shall be deposited in the graduate fellowship trust fund. At the request of the higher education coordinating board under RCW 28B.10.884 (as recodified by this act), the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is required for expenditures from the fund.

Sec. 23. RCW 28B.80.160 and 1995 c 217 s 1 are each amended to read as follows:

In the development of any such plans as called for within RCW 28B.80.150 (as recodified by this act), the board shall use at least the following criteria:

(1) Students who are eligible to attend compact-authorized programs in other states shall meet the Washington residency requirements of chapter 28B.15 RCW prior to being awarded tuition assistance.

(2) For recipients named after January 1, 1995, the tuition assistance shall be in the form of loans that may be completely forgiven in exchange for the student's service within the state of Washington after graduation. The requirements for such service and provisions for loan forgiveness shall be determined in rules adopted by the board.

(3) If appropriations are insufficient to fund all students qualifying under subsection (1) of this section, then the plans shall include criteria for student selection that would be in the best interest in meeting the state's educational needs, as well as recognizing the financial needs of students.

(4) Receipts from the payment of principal or interest or any other subsidies to which the board as administrator is entitled, that are paid by or on behalf of participants under this section, shall be deposited with the board and placed in an account created in this section and shall be used to cover the costs of granting the scholarships, maintaining necessary records, and making collections. The board shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant conditional loans to eligible students.

(5) The Washington interstate commission on higher education professional student exchange program trust fund is created in the custody of the state treasurer. All receipts from loan repayment shall be deposited into the fund. Only the higher education coordinating board, or its designee, may authorize expenditures from the fund. No appropriation is required for expenditures from this fund.

Sec. 24. RCW 28B.80.245 and 1999 c 159 s 3 are each amended to read as follows:

(1) Recipients of the Washington scholars award or the Washington scholars-alternate award under RCW 28A.600.100 through 28A.600.150 who

choose to attend an independent college or university in this state, as defined in subsection (4) of this section, and recipients of the award named after June 30, 1994, who choose to attend a public college or university in the state may receive grants under this section if moneys are available. The higher education coordinating board shall distribute grants to eligible students under this section from moneys appropriated for this purpose. The individual grants shall not exceed, on a yearly basis, the yearly, full-time, resident, undergraduate tuition and service and activities fees in effect at the state-funded research universities. Grants to recipients attending an independent institution shall be contingent upon the institution matching on at least a dollar-for-dollar basis, either with actual money or by a waiver of fees, the amount of the grant received by the student from the state. The higher education coordinating board shall establish procedures, by rule, to disburse the awards as direct grants to the students.

(2) The higher education coordinating board shall establish rules that provide for the annual awarding of grants, if moneys are available, to three Washington scholars per legislative district; and, if not used by an original recipient, to the Washington scholars-alternate from the same legislative district.

Beginning with scholars selected in the year 2000, if the recipients of grants fail to demonstrate in a timely manner that they will enroll in a Washington institution of higher education in the fall term of the academic year following the award of the grant or are deemed by the higher education coordinating board to have withdrawn from college during the first academic year following the award, then the grant shall be considered relinquished. The higher education coordinating board may then award any remaining grant amounts to the Washington scholars-alternate from the same legislative district if the grants are awarded within one calendar year of the recipient being named a Washington scholars-alternate. Washington scholars-alternates named as recipients of the grant must also demonstrate in a timely manner that they will enroll in a Washington institution of higher education during the next available term, as determined by the higher education coordinating board. The board may accept appeals and grant waivers to the enrollment requirements of this section based on exceptional mitigating circumstances of individual grant recipients.

To maintain eligibility for the grants, recipients must maintain a minimum grade point average at the college or university equivalent to 3.30. Students shall be eligible to receive a maximum of twelve quarters or eight semesters of grants for undergraduate study and may transfer among in-state public and independent colleges and universities during that period and continue to receive the grant as provided under RCW 28B.80.246 (as recodified by this act). If the student's cumulative grade point average falls below 3.30 during the first three quarters or two semesters, that student may petition the higher education coordinating board which shall have the authority to establish a probationary period until such time as the student's grade point average meets required standards.

(3) No grant shall be awarded to any student who is pursuing a degree in theology.

(4) As used in this section, "independent college or university" means a private, nonprofit educational institution, the main campus of which is permanently situated in the state, open to residents of the state, providing programs of education beyond the high school level leading at least to the

baccalaureate degree, and accredited by the northwest association of schools and colleges as of June 9, 1988, and other institutions as may be developed that are approved by the higher education coordinating board as meeting equivalent standards as those institutions accredited under this section.

(5) As used in this section, "public college or university" means an institution of higher education as defined in RCW 28B.10.016.

Sec. 25. RCW 28B.80.246 and 1995 1st sp.s. c 5 s 4 are each amended to read as follows:

Students receiving grants under RCW 28B.80.245 (as recodified by this act) or waivers under RCW 28B.15.543 are entitled to transfer among in-state public and independent colleges or universities and to continue to receive award benefits, as provided in this section, in the form of a grant or waiver of tuition and services and activities fees while enrolled at such institutions during the period of eligibility. The total grants or waivers for any one student shall not exceed twelve quarters or eight semesters of undergraduate study.

(1) Scholars named to the award on or before June 30, 1994, may transfer between in-state public institutions, or from an eligible independent college or university to an in-state public institution of higher education, and are entitled to receive the waiver of tuition and services and activities fees.

(2) Scholars named to the award on or before June 30, 1994, may transfer from an in-state public institution to an eligible independent college or university, or between eligible independent colleges or universities, and continue to receive a grant contingent upon available funding.

(3) Scholars named to the award after June 30, 1994, may transfer among in-state public or private colleges and universities and continue to receive the grant contingent upon available funding.

(4) In addition, scholars who transfer to an eligible independent institution may receive the grant contingent upon the agreement of the school to match on at least a dollar-for-dollar basis, either with actual money or by a waiver of fees, the amount of the grant received by the student from the state.

Sec. 26. RCW 28B.80.620 and 1999 c 177 s 2 are each amended to read as follows:

(1) The higher education coordinating board, in consultation with the state board of education has the following powers and duties in administering the pilot program established in RCW 28B.80.622 (as recodified by this act):

(a) To adopt rules necessary to carry out the program;

(b) To establish one or more review committees to assist in the evaluation of proposals for funding. The review committee shall include individuals with significant experience in higher education in areas relevant to one or more of the funding period priorities and shall include representatives from elementary, two-year, and four-year sectors of education;

(c) To award grants no later than September 1st in those years when funding is available by June 30th;

(d) To establish each biennium specific guidelines for submitting grant proposals consistent with the overall goals of the program. During the 1999-2001 biennium, the guidelines shall be consistent with the following desired outcomes of:

(i) Designing a college-level course for enrollment of selected high school seniors interested in teaching careers and students enrolled in a school-based future teachers academy;

(ii) Designing discipline-based lower division courses that are thematically linked to state student learning goals, essential academic learning requirements, and upper division courses in the interdisciplinary arts and science curriculum and supportive of teaching areas appropriate for prospective teachers;

(iii) Designing a preprofessional educational studies minor that would be pursued by prospective kindergarten through eighth grade teachers in conjunction with an interdisciplinary arts and science major;

(iv) Designing mentoring and service learning activities at the community college level that would provide prospective teachers with an orientation to professional education; and

(v) Designing a process for satisfying certification requirements that encompasses pedagogical coursework and school-based internships cognizant of the financial constraints of working students.

(2) The pilot project in this section shall conclude no later than January 1, 2005.

(3) Beginning on December 31, 2001, the higher education coordinating board shall submit an annual written report to the education and higher education committees of the legislature, the state board of education, and the office of the superintendent of public instruction on the status of the pilot project.

Sec. 27. RCW 28B.80.626 and 1999 c 177 s 5 are each amended to read as follows:

The higher education coordinating board teacher training pilot account is established in the custody of the state treasurer. The higher education coordinating board shall deposit in the account all moneys received under RCW 28B.80.624 (as recodified by this act). Moneys in the account may be spent only for the purposes of RCW 28B.80.622 (as recodified by this act). Disbursements from the account shall be on the authorization of the higher education coordinating board. The account is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

PART IV TRANSFER DISPLACED HOMEMAKER PROGRAM

NEW SECTION. Sec. 28. (1) The powers, duties, and functions of administering the displaced homemaker program under chapter 28B.04 RCW are hereby transferred from the higher education coordinating board to the state board for community and technical colleges.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the higher education coordinating board related to the displaced homemaker program shall be delivered to the custody of the state board for community and technical colleges. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the higher education coordinating board for the displaced homemaker program shall be made available to the state board for community and technical colleges. All funds, credits, or other assets held by the higher education coordinating board

for the displaced homemaker program shall be assigned to the state board for community and technical colleges.

(b) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(c) Any appropriations made in connection with the powers, duties, and functions transferred by this act shall, on the effective date of this section, be transferred and credited to the state board for community and technical colleges.

(3) All employees of the higher education coordinating board related to the displaced homemaker program are transferred to the jurisdiction of the state board for community and technical colleges. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the state board for community and technical colleges to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the higher education coordinating board related to the displaced homemaker program shall be continued and acted upon by the state board for community and technical colleges. All existing contracts and obligations shall remain in full force and shall be performed by the state board for community and technical colleges.

(5) The transfer of the powers, duties, functions, and personnel of the higher education coordinating board related to the displaced homemaker program shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

Sec. 29. RCW 28B.04.020 and 1985 c 370 s 36 are each amended to read as follows:

The legislature finds that homemakers are an unrecognized part of the work force who make an invaluable contribution to the strength, durability, and purpose of our state.

The legislature further finds that there is an increasing number of persons in this state who, having fulfilled a role as homemaker, find themselves "displaced" in their middle years through divorce, death of spouse, disability of spouse, or other loss of family income of a spouse. As a consequence, displaced homemakers are very often left with little or no income; they are ineligible for categorical welfare assistance; they are subject to the highest rate of unemployment of any sector of the work force; they face continuing discrimination in employment because of their age and lack of recent paid work experience; they are ineligible for unemployment insurance because they have been engaged in unpaid labor in the home; they are ineligible for social security

benefits because they are too young, and many never qualify because they have been divorced from the family wage earner; they may have lost beneficiaries' rights under employer's pension and health plans through divorce or death of spouse; and they are often unacceptable to private health insurance plans because of their age.

It is the purpose of this chapter to establish guidelines under which the ~~((higher education coordinating board))~~ state board for community and technical colleges shall contract to establish multipurpose service centers and programs to provide necessary training opportunities, counseling, and services for displaced homemakers so that they may enjoy the independence and economic security vital to a productive life.

Sec. 30. RCW 28B.04.030 and 1985 c 370 s 37 are each amended to read as follows:

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

(1) "Board" means the ~~((higher education coordinating board))~~ state board for community and technical colleges.

(2) "Center" means a multipurpose service center for displaced homemakers as described in RCW 28B.04.040.

(3) "Program" means those programs described in RCW 28B.04.050 which provide direct, outreach, and information and training services which serve the needs of displaced homemakers.

(4) "Displaced homemaker" means an individual who:

(a) Has worked in the home for ten or more years providing unsalaried household services for family members on a full-time basis; and

(b) Is not gainfully employed;

(c) Needs assistance in securing employment; and

(d) Has been dependent on the income of another family member but is no longer supported by that income, or has been dependent on federal assistance but is no longer eligible for that assistance, or is supported as the parent of minor children by public assistance or spousal support but whose children are within two years of reaching their majority.

Sec. 31. RCW 28B.04.080 and 1985 c 370 s 42 are each amended to read as follows:

(1) The board shall consult and cooperate with the department of social and health services; the ~~((state board for community college education))~~ higher education coordinating board; the superintendent of public instruction; the ~~((commission for vocational education))~~ work force training and education coordinating board; the employment security department; the department of labor and industries; sponsoring agencies under the federal comprehensive employment and training act (87 Stat. 839; 29 U.S.C. Sec. 801 et seq.), and any other persons or agencies as the board deems appropriate to facilitate the coordination of centers established under this chapter with existing programs of a similar nature.

(2) Annually on July 1st, each agency listed in subsection (1) of this section shall submit a description of each service or program under its jurisdiction which would support the programs and centers established by this chapter and the funds available for such support.

(3) The board shall serve as a clearinghouse for displaced homemaker information and resources and shall compile and disseminate statewide information to the centers, related agencies, and interested persons upon request.

Sec. 32. RCW 28B.04.085 and 1987 c 230 s 2 are each amended to read as follows:

(1) The executive coordinator of the (~~higher education coordinating~~) board shall establish an advisory committee, to be known as the displaced homemaker program advisory committee.

(2) The advisory committee shall be advisory to the executive coordinator and staff of the board.

(3) Committee membership shall not exceed twenty-two persons and shall be geographically and generally representative of the state. At least one member of the advisory committee shall either be or recently have been a displaced homemaker.

(4) Functions of the advisory committee shall be:

(a) To provide advice on all aspects of administration of the displaced homemaker program, including content of program rules, guidelines, and application procedures;

(b) To assist in coordination of activities under the displaced homemaker program with related activities of other state and federal agencies, with particular emphasis on facilitation of coordinated funding.

NEW SECTION. Sec. 33. Sections 28 through 32 of this act take effect July 1, 2005.

PART V STATE NEED GRANT

Sec. 34. RCW 28B.10.800 and 1999 c 345 s 2 are each amended to read as follows:

The purposes of (~~RCW 28B.10.800 through 28B.10.824~~) this chapter are to establish the principles upon which the state financial aid programs will be based and to establish the state of Washington state need grant program, thus assisting financially needy or disadvantaged students domiciled in Washington to obtain the opportunity of attending an accredited institution of higher education(~~, as defined in RCW 28B.10.802(1)~~). State need grants under (~~RCW 28B.10.800 through 28B.10.824~~) this chapter are available only to students who are resident students as defined in RCW 28B.15.012(2) (a) through (d).

Sec. 35. RCW 28B.10.802 and 2002 c 187 s 1 are each amended to read as follows:

As used in (~~RCW 28B.10.800 through 28B.10.824~~) this chapter:

(1) "Institution or institutions of higher education" (~~shall mean (1) {(a)}~~) means:

(a) Any public university, college, community college, or (vocationa- technical institute) technical college operated by the state of Washington or any political subdivision thereof; or

(~~(2) {(b)}~~) (b) Any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level which is a

member institution of an accrediting association recognized by rule of the board for the purposes of this section: PROVIDED, That any institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association, or a branch of a member institution of an accrediting association recognized by rule of the board for purposes of this section, that is eligible for federal student financial aid assistance and has operated as a nonprofit college or university delivering on-site classroom instruction for a minimum of twenty consecutive years within the state of Washington, and has an annual enrollment of at least seven hundred full-time equivalent students: PROVIDED FURTHER, That no institution of higher education shall be eligible to participate in a student financial aid program unless it agrees to and complies with program rules and regulations adopted pursuant to RCW 28B.10.822 (as recodified by this act).

(2) (~~The term~~) "Financial aid" (~~shall mean~~) means loans and/or grants to needy students enrolled or accepted for enrollment as a student at institutions of higher education.

(3) (~~The term~~) "Needy student" (~~shall mean~~) means a post high school student of an institution of higher (~~learning as defined in subsection (1) of this section~~) education who demonstrates to the board the financial inability, either through the student's parents, family and/or personally, to meet the total cost of board, room, books, and tuition and incidental fees for any semester or quarter.

(4) (~~The term~~) "Disadvantaged student" (~~shall mean~~) means a post high school student who by reason of adverse cultural, educational, environmental, experiential, familial or other circumstances is unable to qualify for enrollment as a full time student in an institution of higher (~~learning~~) education, who would otherwise qualify as a needy student, and who is attending an institution of higher (~~learning~~) education under an established program designed to qualify the student for enrollment as a full time student.

(5) (~~Commission or~~) "Board" (~~shall mean~~) means the higher education coordinating board.

Sec. 36. RCW 28B.10.804 and 1999 c 345 s 3 are each amended to read as follows:

The board shall be cognizant of the following guidelines in the performance of its duties:

(1) The board shall be research oriented, not only at its inception but continually through its existence.

(2) The board shall coordinate all existing programs of financial aid except those specifically dedicated to a particular institution by the donor.

(3) The board shall take the initiative and responsibility for coordinating all federal student financial aid programs to ensure that the state recognizes the maximum potential effect of these programs, and shall design state programs that complement existing federal, state, and institutional programs. The board shall ensure that state programs continue to follow the principle that state financial aid funding follows the student to the student's choice of institution of higher education.

(4) Counseling is a paramount function of the state need grant and other state student financial aid programs, and in most cases could only be properly implemented at the institutional levels; therefore, state student financial aid

programs shall be concerned with the attainment of those goals which, in the judgment of the board, are the reasons for the existence of a student financial aid program, and not solely with administration of the program on an individual basis.

(5) The "package" approach of combining loans, grants and employment for student financial aid shall be the conceptual element of the state's involvement.

(6) The board shall ensure that allocations of state appropriations for financial aid are made to individuals and institutions in a timely manner and shall closely monitor expenditures to avoid under or overexpenditure of appropriated funds.

Sec. 37. RCW 28B.10.808 and 1999 c 345 s 5 are each amended to read as follows:

In awarding need grants, the board shall proceed substantially as follows: PROVIDED, That nothing contained herein shall be construed to prevent the board, in the exercise of its sound discretion, from following another procedure when the best interest of the program so dictates:

(1) The board shall annually select the financial aid award recipients from among Washington residents applying for student financial aid who have been ranked according to financial need as determined by the amount of the family contribution and other considerations brought to the board's attention.

(2) The financial need of the highest ranked students shall be met by grants depending upon the evaluation of financial need until the total allocation has been disbursed. Funds from grants which are declined, forfeited or otherwise unused shall be reawarded until dispersed.

(3) A student shall be eligible to receive a state need grant for up to five years, or the credit or clock hour equivalent of five years, or up to one hundred twenty-five percent of the published length of time of the student's program. A student may not start a new associate degree program as a state need grant recipient until at least five years have elapsed since earning an associate degree as a need grant recipient, except that a student may earn two associate degrees concurrently. Qualifications for renewal will include maintaining satisfactory academic progress toward completion of an eligible program as determined by the board. Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the grant shall be returned to the state educational grant fund by the institution according to the institution's own policy for issuing refunds, except as provided in RCW 28B.10.8081 (as recodified by this act).

(4) In computing financial need, the board shall determine a maximum student expense budget allowance, not to exceed an amount equal to the total maximum student expense budget at the public institutions plus the current average state appropriation per student for operating expense in the public institutions.

Sec. 38. RCW 28B.10.8081 and 1991 c 164 s 3 are each amended to read as follows:

Under rules adopted by the board, the provisions of RCW 28B.10.808(3) (as recodified by this act) shall not apply to eligible students, as defined in RCW 28B.10.017, and eligible students shall not be required to repay the unused portions of grants received under the state student financial aid program.

Sec. 39. RCW 28B.10.810 and 1999 c 345 s 6 are each amended to read as follows:

For a student to be eligible for a state need grant a student must:

(1) Be a "needy student" or "disadvantaged student" as determined by the board in accordance with RCW 28B.10.802 (3) and (4) (as recodified by this act).

(2) Have been domiciled within the state of Washington for at least one year.

(3) Be enrolled or accepted for enrollment on at least a half-time basis at an institution of higher education in Washington as defined in RCW 28B.10.802(1) (as recodified by this act).

(4) Have complied with all the rules and regulations adopted by the board for the administration of ~~((RCW 28B.10.800 through 28B.10.824))~~ this chapter.

Sec. 40. RCW 28B.10.816 and 1969 ex.s. c 222 s 16 are each amended to read as follows:

A state financial aid recipient under ~~((RCW 28B.10.800 through 28B.10.824))~~ this chapter shall apply the award toward the cost of tuition, room, board, books and fees at the institution of higher education attended.

Sec. 41. RCW 28B.10.818 and 1969 ex.s. c 222 s 17 are each amended to read as follows:

Funds appropriated for student financial assistance to be granted pursuant to ~~((RCW 28B.10.800 through 28B.10.824))~~ this chapter shall be disbursed as determined by the ~~((commission))~~ board.

Sec. 42. RCW 28B.10.820 and 1969 ex.s. c 222 s 18 are each amended to read as follows:

The ~~((commission))~~ board shall be authorized to accept grants, gifts, bequests, and devises of real and personal property from any source for the purpose of granting financial aid in addition to that funded by the state.

Sec. 43. RCW 28B.10.822 and 1999 c 345 s 7 are each amended to read as follows:

The board shall adopt rules as may be necessary or appropriate for effecting the provisions of ~~((RCW 28B.10.800 through 28B.10.824 and 28B.10.801, and not in conflict with RCW 28B.10.800 through 28B.10.824))~~ this chapter, in accordance with the provisions of chapter 34.05 RCW, the administrative procedure act.

Sec. 44. RCW 28B.10.790 and 1985 c 370 s 54 are each amended to read as follows:

Washington residents attending any nonprofit college or university in another state which has a reciprocity agreement with the state of Washington shall be eligible for the student financial aid program outlined in ~~((RCW 28B.10.800 through 28B.10.824))~~ chapter 28B.— RCW (as created in section 78 of this act) if (1) they qualify as a "needy student" under RCW 28B.10.802(3) (as recodified by this act), and (2) the institution attended is a member institution of an accrediting association recognized by rule of the higher education coordinating board for the purposes of this section and is specifically encompassed within or directly affected by such reciprocity agreement and agrees to and complies with program rules and regulations pertaining to such students and institutions adopted pursuant to RCW 28B.10.822 (as recodified by this act).

**PART VI
MISCELLANEOUS**

Sec. 45. RCW 28B.10.650 and 1985 c 370 s 53 are each amended to read as follows:

It is the intent of the legislature that when the state and regional universities, The Evergreen State College, and community colleges grant professional leaves to faculty and exempt staff, such leaves be for the purpose of providing opportunities for study, research, and creative activities for the enhancement of the institution's instructional and research programs.

The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College and the board of trustees of each community college district may grant remunerated professional leaves to faculty members and exempt staff, as defined in RCW ((28B.16.040)) 41.06.070, in accordance with regulations adopted by the respective governing boards for periods not to exceed twelve consecutive months in accordance with the following provisions:

(1) The remuneration from state general funds and general local funds for any such leave granted for any academic year shall not exceed the average of the highest quartile of a rank order of salaries of all full time teaching faculty holding academic year contracts or appointments at the institution or in the district.

(2) Remunerated professional leaves for a period of more or less than an academic year shall be compensated at rates not to exceed a proportional amount of the average salary as otherwise calculated for the purposes of subsection (1) of this section.

(3) The grant of any such professional leave shall be contingent upon a signed contractual agreement between the respective governing board and the recipient providing that the recipient shall return to the granting institution or district following his or her completion of such leave and serve in a professional status for a period commensurate with the amount of leave so granted. Failure to comply with the provisions of such signed agreement shall constitute an obligation of the recipient to repay to the institution any remuneration received from the institution during the leave.

(4) The aggregate cost of remunerated professional leaves awarded at the institution or district during any year, including the cost of replacement personnel, shall not exceed the cost of salaries which otherwise would have been paid to personnel on leaves: PROVIDED, That for community college districts the aggregate cost shall not exceed one hundred fifty percent of the cost of salaries which would have otherwise been paid to personnel on leaves: PROVIDED FURTHER, That this subsection shall not apply to any community college district with fewer than seventy-five full time faculty members and granting fewer than three individuals such leaves in any given year.

(5) The average number of annual remunerated professional leaves awarded at any such institution or district shall not exceed four percent of the total number of full time equivalent faculty, as defined by the office of financial management, who are engaged in instruction, and exempt staff as defined in RCW ((28B.16.040)) 41.06.070.

(6) Negotiated agreements made in accordance with chapter 28B.52 RCW and entered into after July 1, 1977, shall be in conformance with the provisions of this section.

(7) The respective institutions and districts shall maintain such information which will ensure compliance with the provisions of this section. ~~((The higher education coordinating board shall periodically request such information as to ensure institutions are in compliance.))~~

Sec. 46. RCW 28A.600.110 and 1994 c 234 s 4 are each amended to read as follows:

There is established by the legislature of the state of Washington the Washington state scholars program. The purposes of this program annually are to:

(1) Provide for the selection of three seniors residing in each legislative district in the state graduating from high schools who have distinguished themselves academically among their peers.

(2) Maximize public awareness of the academic achievement, leadership ability, and community contribution of Washington state public and private high school seniors through appropriate recognition ceremonies and events at both the local and state level.

(3) Provide a listing of the Washington scholars to all Washington state public and private colleges and universities to facilitate communication regarding academic programs and scholarship availability.

(4) Make available a state level mechanism for utilization of private funds for scholarship awards to outstanding high school seniors.

(5) Provide, on written request and with student permission, a listing of the Washington scholars to private scholarship selection committees for notification of scholarship availability.

(6) Permit a waiver of tuition and services and activities fees as provided for in RCW 28B.15.543 and grants under RCW 28B.80.245 (as recodified by this act).

Sec. 47. RCW 28B.10.020 and 1985 c 370 s 50 are each amended to read as follows:

The boards of regents of the University of Washington and Washington State University, respectively, and the boards of trustees of Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College, respectively, shall have the power and authority to acquire by exchange, gift, purchase, lease, or condemnation in the manner provided by chapter 8.04 RCW for condemnation of property for public use, such lands, real estate and other property, and interests therein as they may deem necessary for the use of said institutions respectively. However, the purchase or lease of major off-campus facilities is subject to the approval of the higher education coordinating board under ~~((RCW 28B.80.340))~~ section 9 of this act.

Sec. 48. RCW 28B.10.050 and 1985 c 370 s 91 are each amended to read as follows:

Except as the legislature shall otherwise specifically direct, the boards of regents and the boards of trustees for the state universities, the regional universities, and The Evergreen State College may establish entrance requirements for their respective institutions of higher education which meet or

exceed the minimum entrance requirements established under RCW 28B.80.350(2) (as recodified by this act).

Sec. 49. RCW 28B.15.543 and 1995 1st sp.s. c 5 s 2 are each amended to read as follows:

(1) Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges shall waive tuition and service and activities fees for students named by the higher education coordinating board on or before June 30, 1994, as recipients of the Washington scholars award under RCW 28A.600.100 through 28A.600.150. The waivers shall be used only for undergraduate studies. To qualify for the waiver, recipients shall enter the college or university within three years of high school graduation and maintain a minimum grade point average at the college or university equivalent to 3.30. Students shall be eligible to receive a maximum of twelve quarters or eight semesters of waivers and may transfer among state-supported institutions of higher education during that period and continue to have the tuition and services and activities fees waived by the state-supported institution of higher education that the student attends. Should the student's cumulative grade point average fall below 3.30 during the first three quarters or two semesters, that student may petition the higher education coordinating board which shall have the authority to establish a probationary period until such time as the student's grade point average meets required standards.

(2) Students named by the higher education coordinating board after June 30, 1994, as recipients of the Washington scholars award under RCW 28A.600.100 through 28A.600.150 shall be eligible to receive a grant for undergraduate course work as authorized under RCW 28B.80.245 (as recodified by this act).

Sec. 50. RCW 28B.15.545 and 1995 1st sp.s. c 7 s 7 are each amended to read as follows:

(1) Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges shall waive tuition and services and activities fees for a maximum of two years for those recipients of the Washington award for vocational excellence established under RCW 28C.04.520 through 28C.04.540 who received their awards before June 30, 1994. Each recipient shall not receive a waiver for more than six quarters or four semesters. To qualify for the waiver, recipients shall enter the college or university within three years of receiving the award. A minimum grade point average at the college or university equivalent to 3.00, or an above-average rating at a technical college, shall be required in the first year to qualify for the second-year waiver. The tuition waiver shall be granted for undergraduate studies only.

(2) Students named by the work force training and education coordinating board after June 30, 1994, as recipients of the Washington award for vocational excellence under RCW 28C.04.520 through 28C.04.550 shall be eligible to receive a grant for undergraduate course work as authorized under RCW 28B.80.272 (as recodified by this act).

Sec. 51. RCW 28B.15.910 and 2000 c 152 s 3 are each amended to read as follows:

(1) For the purpose of providing state general fund support to public institutions of higher education, except for revenue waived under programs listed in subsections (3) and (4) of this section, and unless otherwise expressly provided in the omnibus state appropriations act, the total amount of operating fees revenue waived, exempted, or reduced by a state university, a regional university, The Evergreen State College, or the community colleges as a whole, shall not exceed the percentage of total gross authorized operating fees revenue in this subsection. As used in this section, "gross authorized operating fees revenue" means the estimated gross operating fees revenue as estimated under RCW 82.33.020 or as revised by the office of financial management, before granting any waivers. This limitation applies to all tuition waiver programs established before or after July 1, 1992.

(a) University of Washington	21 percent
(b) Washington State University	20 percent
(c) Eastern Washington University	11 percent
(d) Central Washington University	8 percent
(e) Western Washington University	10 percent
(f) The Evergreen State College	6 percent
(g) Community colleges as a whole	35 percent

(2) The limitations in subsection (1) of this section apply to waivers, exemptions, or reductions in operating fees contained in the following:

- (a) RCW 28B.10.265;
- (b) RCW 28B.15.014;
- (c) RCW 28B.15.100;
- (d) RCW 28B.15.225;
- (e) RCW 28B.15.380;
- (f) RCW 28B.15.520;
- (g) RCW 28B.15.526;
- (h) RCW 28B.15.527;
- (i) RCW 28B.15.543;
- (j) RCW 28B.15.545;
- (k) RCW 28B.15.555;
- (l) RCW 28B.15.556;
- (m) RCW 28B.15.615;
- (n) RCW 28B.15.620;
- (o) RCW 28B.15.628;
- (p) RCW 28B.15.730;
- (q) RCW 28B.15.740;
- (r) RCW 28B.15.750;
- (s) RCW 28B.15.756;
- (t) RCW 28B.50.259;
- (u) RCW 28B.70.050; and
- (v) (~~RCW 28B.80.580; and~~

~~(w))~~) During the 1997-99 fiscal biennium, the western interstate commission for higher education undergraduate exchange program for students attending Eastern Washington University.

(3) The limitations in subsection (1) of this section do not apply to waivers, exemptions, or reductions in services and activities fees contained in the following:

- (a) RCW 28B.15.522;
- (b) RCW 28B.15.540; and
- (c) RCW 28B.15.558.

(4) The total amount of operating fees revenue waived, exempted, or reduced by institutions of higher education participating in the western interstate commission for higher education western undergraduate exchange program under RCW 28B.15.544 shall not exceed the percentage of total gross authorized operating fees revenue in this subsection.

- | | |
|-----------------------------------|-----------|
| (a) Washington State University | 1 percent |
| (b) Eastern Washington University | 3 percent |
| (c) Central Washington University | 3 percent |

Sec. 52. RCW 28B.20.130 and 1998 c 245 s 16 are each amended to read as follows:

General powers and duties of the board of regents are as follows:

(1) To have full control of the university and its property of various kinds, except as otherwise provided by law.

(2) To employ the president of the university, his or her assistants, members of the faculty, and employees of the institution, who except as otherwise provided by law, shall hold their positions during the pleasure of said board of regents.

(3) Establish entrance requirements for students seeking admission to the university which meet or exceed the standards specified under RCW 28B.80.350(2) (as recodified by this act). Completion of examinations satisfactory to the university may be a prerequisite for entrance by any applicant at the university's discretion. Evidence of completion of public high schools and other educational institutions whose courses of study meet the approval of the university may be acceptable for entrance.

(4) Establish such colleges, schools, or departments necessary to carry out the purpose of the university and not otherwise proscribed by law.

(5) With the assistance of the faculty of the university, prescribe the course of study in the various colleges, schools, and departments of the institution and publish the necessary catalogues thereof.

(6) Grant to students such certificates or degrees as recommended for such students by the faculty. The board, upon recommendation of the faculty, may also confer honorary degrees upon persons other than graduates of this university in recognition of their learning or devotion to literature, art, or science: PROVIDED, That no degree shall ever be conferred in consideration of the payment of money or the giving of property of whatsoever kind.

(7) Accept such gifts, grants, conveyances, bequests, and devises, whether real or personal property, or both, in trust or otherwise, for the use or benefit of the university, its colleges, schools, departments, or agencies; and sell, lease or exchange, invest or expend the same or the proceeds, rents, profits, and income thereof except as limited by the terms of said gifts, grants, conveyances, bequests, and devises. The board shall adopt proper rules to govern and protect the receipt and expenditure of the proceeds of all fees, and the proceeds, rents, profits, and income of all gifts, grants, conveyances, bequests, and devises above-mentioned.

(8) Except as otherwise provided by law, to enter into such contracts as the regents deem essential to university purposes.

(9) To submit upon request such reports as will be helpful to the governor and to the legislature in providing for the institution.

(10) Subject to the approval of the higher education coordinating board pursuant to (~~RCW 28B.80.340~~) section 9 of this act, offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities.

Sec. 53. RCW 28B.30.150 and 1998 c 245 s 19 are each amended to read as follows:

The regents of Washington State University, in addition to other duties prescribed by law, shall:

(1) Have full control of the university and its property of various kinds, except as otherwise provided by law.

(2) Employ the president of the university, his or her assistants, members of the faculty, and employees of the university, who, except as otherwise provided by law, shall hold their positions during the pleasure of said board of regents.

(3) Establish entrance requirements for students seeking admission to the university which meet or exceed the standards specified under RCW 28B.80.350(2) (as recodified by this act). Completion of examinations satisfactory to the university may be a prerequisite for entrance by any applicant, at the university's discretion. Evidence of completion of public high schools and other educational institutions whose courses of study meet the approval of the university may be acceptable for entrance.

(4) Establish such colleges, schools, or departments necessary to carry out the purpose of the university and not otherwise proscribed by law.

(5) Subject to the approval of the higher education coordinating board pursuant to (~~RCW 28B.80.340~~) section 9 of this act, offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities.

(6) With the assistance of the faculty of the university, prescribe the courses of instruction in the various colleges, schools, and departments of the institution and publish the necessary catalogues thereof.

(7) Collect such information as the board deems desirable as to the schemes of technical instruction adopted in other parts of the United States and foreign countries.

(8) Provide for holding agricultural institutes including farm marketing forums.

(9) Provide that instruction given in the university, as far as practicable, be conveyed by means of laboratory work and provide in connection with the university one or more physical, chemical, and biological laboratories, and suitably furnish and equip the same.

(10) Provide training in military tactics for those students electing to participate therein.

(11) Establish a department of elementary science and in connection therewith provide instruction in elementary mathematics, including elementary trigonometry, elementary mechanics, elementary and mechanical drawing, and land surveying.

(12) Establish a department of agriculture and in connection therewith provide instruction in physics with special application of its principles to agriculture, chemistry with special application of its principles to agriculture, morphology and physiology of plants with special reference to common grown crops and fungus enemies, morphology and physiology of the lower forms of animal life, with special reference to insect pests, morphology and physiology of the higher forms of animal life and in particular of the horse, cow, sheep, and swine, agriculture with special reference to the breeding and feeding of livestock and the best mode of cultivation of farm produce, and mining and metallurgy, appointing demonstrators in each of these subjects to superintend the equipment of a laboratory and to give practical instruction therein.

(13) Establish agricultural experiment stations in connection with the department of agriculture, including at least one in the western portion of the state, and appoint the officers and prescribe regulations for their management.

(14) Grant to students such certificates or degrees, as recommended for such students by the faculty.

(15) Confer honorary degrees upon persons other than graduates of the university in recognition of their learning or devotion to literature, art, or science when recommended thereto by the faculty: PROVIDED, That no degree shall ever be conferred in consideration of the payment of money or the giving of property of whatsoever kind.

(16) Adopt plans and specifications for university buildings and facilities or improvements thereto and employ skilled architects and engineers to prepare such plans and specifications and supervise the construction of buildings or facilities which the board is authorized to erect, and fix the compensation for such services. The board shall enter into contracts with one or more contractors for such suitable buildings, facilities, or improvements as the available funds will warrant, upon the most advantageous terms offered at a public competitive letting, pursuant to public notice under rules established by the board. The board shall require of all persons with whom they contract for construction and improvements a good and sufficient bond for the faithful performance of the work and full protection against all liens.

(17) Except as otherwise provided by law, direct the disposition of all money appropriated to or belonging to the state university.

(18) Receive and expend the money appropriated under the act of congress approved May 8, 1914, entitled "An Act to provide for cooperative agricultural extension work between the agricultural colleges in the several States receiving the benefits of the Act of Congress approved July 2, 1862, and Acts supplemental thereto and the United States Department of Agriculture" and organize and conduct agricultural extension work in connection with the state university in accordance with the terms and conditions expressed in the acts of congress.

(19) Except as otherwise provided by law, to enter into such contracts as the regents deem essential to university purposes.

(20) Acquire by lease, gift, or otherwise, lands necessary to further the work of the university or for experimental or demonstrational purposes.

(21) Establish and maintain at least one agricultural experiment station in an irrigation district to conduct investigational work upon the principles and practices of irrigational agriculture including the utilization of water and its

relation to soil types, crops, climatic conditions, ditch and drain construction, fertility investigations, plant disease, insect pests, marketing, farm management, utilization of fruit byproducts, and general development of agriculture under irrigation conditions.

(22) Supervise and control the agricultural experiment station at Puyallup.

(23) Establish and maintain at Wenatchee an agricultural experiment substation for the purpose of conducting investigational work upon the principles and practices of orchard culture, spraying, fertilization, pollenization, new fruit varieties, fruit diseases and pests, byproducts, marketing, management, and general horticultural problems.

(24) Accept such gifts, grants, conveyances, devises, and bequests, whether real or personal property, in trust or otherwise, for the use or benefit of the university, its colleges, schools, or departments; and sell, lease or exchange, invest or expend the same or the proceeds, rents, profits, and income thereof except as limited by the terms of said gifts, grants, conveyances, bequests, and devises; and adopt proper rules to govern and protect the receipt and expenditure of the proceeds of all fees, and the proceeds, rents, profits, and income of all gifts, grants, conveyances, bequests, and devises.

(25) Construct when the board so determines a new foundry and a mining, physical, technological building, and fabrication shop at the university, or add to the present foundry and other buildings, in order that both instruction and research be expanded to include permanent molding and die casting with a section for new fabricating techniques, especially for light metals, including magnesium and aluminum; purchase equipment for the shops and laboratories in mechanical, electrical, and civil engineering; establish a pilot plant for the extraction of alumina from native clays and other possible light metal research; purchase equipment for a research laboratory for technological research generally; and purchase equipment for research in electronics, instrumentation, energy sources, plastics, food technology, mechanics of materials, hydraulics, and similar fields.

(26) Make and transmit to the governor and members of the legislature upon request such reports as will be helpful in providing for the institution.

Sec. 54. RCW 28B.35.120 and 1985 c 370 s 94 are each amended to read as follows:

In addition to any other powers and duties prescribed by law, each board of trustees of the respective regional universities:

(1) Shall have full control of the regional university and its property of various kinds, except as otherwise provided by law.

(2) Shall employ the president of the regional university, his assistants, members of the faculty, and other employees of the institution, who, except as otherwise provided by law, shall hold their positions, until discharged therefrom by the board for good and lawful reason.

(3) With the assistance of the faculty of the regional university, shall prescribe the course of study in the various schools and departments thereof and publish such catalogues thereof as the board deems necessary: PROVIDED, That the state board of education shall determine the requisites for and give program approval of all courses leading to teacher certification by such board.

(4) Establish such divisions, schools or departments necessary to carry out the purposes of the regional university and not otherwise proscribed by law.

(5) Except as otherwise provided by law, may establish and erect such new facilities as determined by the board to be necessary for the regional university.

(6) May acquire real and other property as provided in RCW 28B.10.020, as now or hereafter amended.

(7) Except as otherwise provided by law, may purchase all supplies and purchase or lease equipment and other personal property needed for the operation or maintenance of the regional university.

(8) May establish, lease, operate, equip and maintain self-supporting facilities in the manner provided in RCW 28B.10.300 through 28B.10.330, as now or hereafter amended.

(9) Except as otherwise provided by law, to enter into such contracts as the trustees deem essential to regional university purposes.

(10) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from whatsoever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the regional university programs; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof except as limited by the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof.

(11) Subject to the approval of the higher education coordinating board pursuant to ~~((RCW 28B.80.340))~~ section 9 of this act, offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities.

(12) May promulgate such rules and regulations, and perform all other acts not forbidden by law, as the board of trustees may in its discretion deem necessary or appropriate to the administration of the regional university.

Sec. 55. RCW 28B.38.010 and 1998 c 344 s 9 are each amended to read as follows:

(1) The Spokane intercollegiate research and technology institute is created.

(2) The institute shall be operated and administered as a multi-institutional education and research center, housing appropriate programs conducted in Spokane under the authority of institutions of higher education as defined in RCW 28B.10.016. Washington independent and private institutions of higher education may participate as full partners in any academic and research activities of the institute.

(3) The institute shall house education and research programs specifically designed to meet the needs of eastern Washington.

(4) The establishment of any education program at the institute and the lease, purchase, or construction of any site or facility for the institute is subject to the approval of the higher education coordinating board under ~~((RCW 28B.80.340))~~ section 9 of this act.

(5) The institute shall be headquartered in Spokane.

(6) The mission of the institute is to perform and commercialize research that benefits the intermediate and long-term economic vitality of eastern Washington and to develop and strengthen university-industry relationships through the conduct of research that is primarily of interest to eastern Washington-based companies or state economic development programs. The institute shall:

(a) Perform and facilitate research supportive of state science and technology objectives, particularly as they relate to eastern Washington industries;

(b) Provide leading edge collaborative research and technology transfer opportunities primarily to eastern Washington industries;

(c) Provide substantial opportunities for training undergraduate and graduate students through direct involvement in research and industry interactions;

(d) Emphasize and develop nonstate support of the institute's research activities; and

(e) Provide a forum for effective interaction between the state's technology-based industries and its academic institutions through promotion of faculty collaboration with industry, particularly within eastern Washington.

Sec. 56. RCW 28B.40.120 and 1985 c 370 s 95 are each amended to read as follows:

In addition to any other powers and duties prescribed by law, the board of trustees of The Evergreen State College:

(1) Shall have full control of the state college and its property of various kinds, except as otherwise provided by law.

(2) Shall employ the president of the state college, his assistants, members of the faculty, and other employees of the institution, who, except as otherwise provided by law, shall hold their positions, until discharged therefrom by the board for good and lawful reason.

(3) With the assistance of the faculty of the state college, shall prescribe the course of study in the various schools and departments thereof and publish such catalogues thereof as the board deems necessary: PROVIDED, That the state board of education shall determine the requisites for and give program approval of all courses leading to teacher certification by such board.

(4) Establish such divisions, schools or departments necessary to carry out the purposes of the college and not otherwise proscribed by law.

(5) Except as otherwise provided by law, may establish and erect such new facilities as determined by the board to be necessary for the college.

(6) May acquire real and other property as provided in RCW 28B.10.020, as now or hereafter amended.

(7) Except as otherwise provided by law, may purchase all supplies and purchase or lease equipment and other personal property needed for the operation or maintenance of the college.

(8) May establish, lease, operate, equip and maintain self-supporting facilities in the manner provided in RCW 28B.10.300 through 28B.10.330, as now or hereafter amended.

(9) Except as otherwise provided by law, to enter into such contracts as the trustees deem essential to college purposes.

(10) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from whatsoever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the college programs; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof except as limited by the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof.

(11) Subject to the approval of the higher education coordinating board pursuant to ~~((RCW 28B.80.340))~~ section 9 of this act, offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities.

(12) May promulgate such rules and regulations, and perform all other acts not forbidden by law, as the board of trustees may in its discretion deem necessary or appropriate to the administration of the college.

Sec. 57. RCW 28B.50.090 and 2003 c 130 s 6 are each amended to read as follows:

The college board shall have general supervision and control over the state system of community and technical colleges. In addition to the other powers and duties imposed upon the college board by this chapter, the college board shall be charged with the following powers, duties and responsibilities:

(1) Review the budgets prepared by the boards of trustees, prepare a single budget for the support of the state system of community and technical colleges and adult education, and submit this budget to the governor as provided in RCW 43.88.090;

(2) Establish guidelines for the disbursement of funds; and receive and disburse such funds for adult education and maintenance and operation and capital support of the college districts in conformance with the state and district budgets, and in conformance with chapter 43.88 RCW;

(3) Ensure, through the full use of its authority:

(a) That each college district shall offer thoroughly comprehensive educational, training and service programs to meet the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; and community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and work force literacy programs and services. However, technical colleges, and college districts containing only technical colleges, shall maintain programs solely for occupational education, basic skills, and literacy purposes. For as long as a need exists, technical colleges may continue those programs, activities, and services they offered during the twelve-month period preceding May 17, 1991;

(b) That each college district shall maintain an open-door policy, to the end that no student will be denied admission because of the location of the student's residence or because of the student's educational background or ability; that, insofar as is practical in the judgment of the college board, curriculum offerings will be provided to meet the educational and training needs of the community generally and the students thereof; and that all students, regardless of their differing courses of study, will be considered, known and recognized equally as members of the student body: PROVIDED, That the administrative officers of a community or technical college may deny admission to a prospective student or attendance to an enrolled student if, in their judgment, the student would not be competent to profit from the curriculum offerings of the college, or would, by his or her presence or conduct, create a disruptive atmosphere within the college not consistent with the purposes of the institution. This subsection (3)(b) shall not

apply to competency, conduct, or presence associated with a disability in a person twenty-one years of age or younger attending a technical college;

(4) Prepare a comprehensive master plan for the development of community and technical college education and training in the state; and assist the office of financial management in the preparation of enrollment projections to support plans for providing adequate college facilities in all areas of the state. The master plan shall include implementation of the vision, goals, priorities, and strategies in the statewide strategic master plan for higher education under RCW 28B.80.345 (as recodified by this act) based on the community and technical college system's role and mission. The master plan shall also contain measurable performance indicators and benchmarks for gauging progress toward achieving the goals and priorities;

(5) Define and administer criteria and guidelines for the establishment of new community and technical colleges or campuses within the existing districts;

(6) Establish criteria and procedures for modifying district boundary lines consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended and in accordance therewith make such changes as it deems advisable;

(7) Establish minimum standards to govern the operation of the community and technical colleges with respect to:

(a) Qualifications and credentials of instructional and key administrative personnel, except as otherwise provided in the state plan for vocational education,

(b) Internal budgeting, accounting, auditing, and financial procedures as necessary to supplement the general requirements prescribed pursuant to chapter 43.88 RCW,

(c) The content of the curriculums and other educational and training programs, and the requirement for degrees and certificates awarded by the colleges,

(d) Standard admission policies,

(e) Eligibility of courses to receive state fund support;

(8) Establish and administer criteria and procedures for all capital construction including the establishment, installation, and expansion of facilities within the various college districts;

(9) Encourage innovation in the development of new educational and training programs and instructional methods; coordinate research efforts to this end; and disseminate the findings thereof;

(10) Exercise any other powers, duties and responsibilities necessary to carry out the purposes of this chapter;

(11) Authorize the various community and technical colleges to offer programs and courses in other districts when it determines that such action is consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended;

(12) Notwithstanding any other law or statute regarding the sale of state property, sell or exchange and convey any or all interest in any community and technical college real and personal property, except such property as is received by a college district in accordance with RCW 28B.50.140(8), when it determines that such property is surplus or that such a sale or exchange is in the best interests of the community and technical college system;

(13) In order that the treasurer for the state board for community and technical colleges appointed in accordance with RCW 28B.50.085 may make vendor payments, the state treasurer will honor warrants drawn by the state board providing for an initial advance on July 1, 1982, of the current biennium and on July 1 of each succeeding biennium from the state general fund in an amount equal to twenty-four percent of the average monthly allotment for such budgeted biennium expenditures for the state board for community and technical colleges as certified by the office of financial management; and at the conclusion of such initial month and for each succeeding month of any biennium, the state treasurer will reimburse expenditures incurred and reported monthly by the state board treasurer in accordance with chapter 43.88 RCW: PROVIDED, That the reimbursement to the state board for actual expenditures incurred in the final month of each biennium shall be less the initial advance made in such biennium;

(14) Notwithstanding the provisions of subsection (12) of this section, may receive such gifts, grants, conveyances, devises, and bequests of real or personal property from private sources as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community and technical college programs and may sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof;

(15) The college board shall have the power of eminent domain;

(16) Provide general supervision over the state's technical colleges. The president of each technical college shall report directly to the director of the state board for community and technical colleges, or the director's designee, until local control is assumed by a new or existing board of trustees as appropriate, except that a college president shall have authority over program decisions of his or her college until the establishment of a board of trustees for that college. The directors of the vocational-technical institutes on March 1, 1991, shall be designated as the presidents of the new technical colleges.

Sec. 58. RCW 28B.50.140 and 1997 c 281 s 1 are each amended to read as follows:

Each board of trustees:

(1) Shall operate all existing community and technical colleges in its district;

(2) Shall create comprehensive programs of community and technical college education and training and maintain an open-door policy in accordance with the provisions of RCW 28B.50.090(3). However, technical colleges, and college districts containing only technical colleges, shall maintain programs solely for occupational education, basic skills, and literacy purposes. For as long as a need exists, technical colleges may continue those programs, activities, and services they offered during the twelve-month period preceding September 1, 1991;

(3) Shall employ for a period to be fixed by the board a college president for each community and technical college and, may appoint a president for the district, and fix their duties and compensation, which may include elements other than salary. Compensation under this subsection shall not affect but may supplement retirement, health care, and other benefits that are otherwise applicable to the presidents as state employees. The board shall also employ for

a period to be fixed by the board members of the faculty and such other administrative officers and other employees as may be necessary or appropriate and fix their salaries and duties. Compensation and salary increases under this subsection shall not exceed the amount or percentage established for those purposes in the state appropriations act by the legislature as allocated to the board of trustees by the state board for community and technical colleges. The state board for community and technical colleges shall adopt rules defining the permissible elements of compensation under this subsection;

(4) May establish, under the approval and direction of the college board, new facilities as community needs and interests demand. However, the authority of boards of trustees to purchase or lease major off-campus facilities shall be subject to the approval of the higher education coordinating board pursuant to ((RCW 28B.80.340(5))) section 9 of this act;

(5) May establish or lease, operate, equip and maintain dormitories, food service facilities, bookstores and other self-supporting facilities connected with the operation of the community and technical college;

(6) May, with the approval of the college board, borrow money and issue and sell revenue bonds or other evidences of indebtedness for the construction, reconstruction, erection, equipping with permanent fixtures, demolition and major alteration of buildings or other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances, for dormitories, food service facilities, and other self-supporting facilities connected with the operation of the community and technical college in accordance with the provisions of RCW 28B.10.300 through 28B.10.330 where applicable;

(7) May establish fees and charges for the facilities authorized hereunder, including reasonable rules and regulations for the government thereof, not inconsistent with the rules and regulations of the college board; each board of trustees operating a community and technical college may enter into agreements, subject to rules and regulations of the college board, with owners of facilities to be used for housing regarding the management, operation, and government of such facilities, and any board entering into such an agreement may:

(a) Make rules and regulations for the government, management and operation of such housing facilities deemed necessary or advisable; and

(b) Employ necessary employees to govern, manage and operate the same;

(8) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from private sources, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community and technical college programs as specified by law and the regulations of the state college board; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof;

(9) May establish and maintain night schools whenever in the discretion of the board of trustees it is deemed advisable, and authorize classrooms and other facilities to be used for summer or night schools, or for public meetings and for any other uses consistent with the use of such classrooms or facilities for community and technical college purposes;

(10) May make rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the district;

(11) Shall prescribe, with the assistance of the faculty, the course of study in the various departments of the community and technical college or colleges under its control, and publish such catalogues and bulletins as may become necessary;

(12) May grant to every student, upon graduation or completion of a course of study, a suitable diploma, nonbaccalaureate degree or certificate. Technical colleges shall offer only nonbaccalaureate technical degrees under the rules of the state board for community and technical colleges that are appropriate to their work force education and training mission. The primary purpose of this degree is to lead the individual directly to employment in a specific occupation. Technical colleges may not offer transfer degrees. The board, upon recommendation of the faculty, may also confer honorary associate of arts degrees upon persons other than graduates of the community college, in recognition of their learning or devotion to education, literature, art, or science. No degree may be conferred in consideration of the payment of money or the donation of any kind of property;

(13) Shall enforce the rules and regulations prescribed by the state board for community and technical colleges for the government of community and technical colleges, students and teachers, and promulgate such rules and regulations and perform all other acts not inconsistent with law or rules and regulations of the state board for community and technical colleges as the board of trustees may in its discretion deem necessary or appropriate to the administration of college districts: PROVIDED, That such rules and regulations shall include, but not be limited to, rules and regulations relating to housing, scholarships, conduct at the various community and technical college facilities, and discipline: PROVIDED, FURTHER, That the board of trustees may suspend or expel from community and technical colleges students who refuse to obey any of the duly promulgated rules and regulations;

(14) May, by written order filed in its office, delegate to the president or district president any of the powers and duties vested in or imposed upon it by this chapter. Such delegated powers and duties may be exercised in the name of the district board;

(15) May perform such other activities consistent with this chapter and not in conflict with the directives of the college board;

(16) Notwithstanding any other provision of law, may offer educational services on a contractual basis other than the tuition and fee basis set forth in chapter 28B.15 RCW for a special fee to private or governmental entities, consistent with rules and regulations adopted by the state board for community and technical colleges: PROVIDED, That the whole of such special fee shall go to the college district and be not less than the full instructional costs of such services including any salary increases authorized by the legislature for community and technical college employees during the term of the agreement: PROVIDED FURTHER, That enrollments generated hereunder shall not be counted toward the official enrollment level of the college district for state funding purposes;

(17) Notwithstanding any other provision of law, may offer educational services on a contractual basis, charging tuition and fees as set forth in chapter 28B.15 RCW, counting such enrollments for state funding purposes, and may additionally charge a special supplemental fee when necessary to cover the full

instructional costs of such services: PROVIDED, That such contracts shall be subject to review by the state board for community and technical colleges and to such rules as the state board may adopt for that purpose in order to assure that the sum of the supplemental fee and the normal state funding shall not exceed the projected total cost of offering the educational service: PROVIDED FURTHER, That enrollments generated by courses offered on the basis of contracts requiring payment of a share of the normal costs of the course will be discounted to the percentage provided by the college;

(18) Shall be authorized to pay dues to any association of trustees that may be formed by the various boards of trustees; such association may expend any or all of such funds to submit biennially, or more often if necessary, to the governor and to the legislature, the recommendations of the association regarding changes which would affect the efficiency of such association;

(19) (~~Subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340(4);~~) May participate in higher education centers and consortia that involve any four-year public or independent college or university; PROVIDED, That new degree programs or off-campus programs offered by a four-year public or independent college or university in collaboration with a community or technical college are subject to approval by the higher education coordinating board under section 9 of this act; and

(20) Shall perform any other duties and responsibilities imposed by law or rule and regulation of the state board.

Sec. 59. RCW 28B.95.020 and 2001 c 184 s 1 are each amended to read as follows:

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

(1) "Academic year" means the regular nine-month, three-quarter, or two-semester period annually occurring between July 1st and June 30th.

(2) "Account" means the Washington advanced college tuition payment program account established for the deposit of all money received by the board from eligible purchasers and interest earnings on investments of funds in the account, as well as for all expenditures on behalf of eligible beneficiaries for the redemption of tuition units and for the development of any authorized college savings program pursuant to RCW 28B.95.150.

(3) "Board" means the higher education coordinating board as defined in chapter (~~28B.80~~) 28B.— RCW (as created in section 76 of this act).

(4) "Committee on advanced tuition payment" or "committee" means a committee of the following members: The state treasurer, the director of the office of financial management, the executive director of the higher education coordinating board, or their designees, and two members to be appointed by the governor, one representing program participants and one private business representative with marketing, public relations, or financial expertise.

(5) "Governing body" means the committee empowered by the legislature to administer the Washington advanced college tuition payment program.

(6) "Contractual obligation" means a legally binding contract of the state with the purchaser and the beneficiary establishing that purchases of tuition units will be worth the same number of tuition units at the time of redemption as they were worth at the time of the purchase.

(7) "Eligible beneficiary" means the person for whom the tuition unit will be redeemed for attendance at an institution of higher education. The beneficiary is that person named by the purchaser at the time that a tuition unit contract is accepted by the governing body. With the exception of tuition unit contracts purchased by qualified organizations as future scholarships, the beneficiary must reside in the state of Washington or otherwise be a resident of the state of Washington at the time the tuition unit contract is accepted by the governing body.

(8) "Eligible purchaser" means an individual or organization that has entered into a tuition unit contract with the governing body for the purchase of tuition units for an eligible beneficiary.

(9) "Full-time tuition charges" means resident tuition charges at a state institution of higher education for enrollments between ten credits and eighteen credit hours per academic term.

(10) "Institution of higher education" means an institution that offers education beyond the secondary level and is recognized by the internal revenue service under chapter 529 of the internal revenue code.

(11) "Investment board" means the state investment board as defined in chapter 43.33A RCW.

(12) "State institution of higher education" means institutions of higher education as defined in RCW 28B.10.016.

(13) "Tuition and fees" means undergraduate tuition and services and activities fees as defined in RCW 28B.15.020 and 28B.15.041 rounded to the nearest whole dollar. The maximum tuition and fees charges recognized for beneficiaries enrolled in a state technical college shall be equal to the tuition and fees for the community college system.

(14) "Tuition unit contract" means a contract between an eligible purchaser and the governing body, or a successor agency appointed for administration of this chapter, for the purchase of tuition units for a specified beneficiary that may be redeemed at a later date for an equal number of tuition units.

(15) "Unit purchase price" means the minimum cost to purchase one tuition unit for an eligible beneficiary. Generally, the minimum purchase price is one percent of the undergraduate weighted average tuition and fees for the current year, rounded to the nearest whole dollar, adjusted for the costs of administration and adjusted to ensure the actuarial soundness of the account. The analysis for price setting shall also include, but not be limited to consideration of past and projected patterns of tuition increases, program liability, past and projected investment returns, and the need for a prudent stabilization reserve.

(16) "Weighted average tuition" shall be calculated as the sum of the undergraduate tuition and services and activities fees for each four-year state institution of higher education, multiplied by the respective full-time equivalent student enrollment at each institution divided by the sum total of undergraduate full-time equivalent student enrollments of all four-year state institutions of higher education, rounded to the nearest whole dollar.

(17) "Weighted average tuition unit" is the value of the weighted average tuition and fees divided by one hundred. The weighted average is the basis upon which tuition benefits may be calculated as the basis for any refunds provided from the program.

Sec. 60. RCW 28B.119.010 and 2003 c 233 s 5 are each amended to read as follows:

The higher education coordinating board shall design the Washington promise scholarship program based on the following parameters:

(1) Scholarships shall be awarded to students graduating from public and approved private high schools under chapter 28A.195 RCW, students participating in home-based instruction as provided in chapter 28A.200 RCW, and persons twenty-one years of age or younger receiving a GED certificate, who meet both an academic and a financial eligibility criteria.

(a) Academic eligibility criteria shall be defined as follows:

(i) Beginning with the graduating class of 2002, students graduating from public and approved private high schools under chapter 28A.195 RCW must be in the top fifteen percent of their graduating class, as identified by each respective high school at the completion of the first term of the student's senior year; or

(ii) Students graduating from public high schools, approved private high schools under chapter 28A.195 RCW, students participating in home-based instruction as provided in chapter 28A.200 RCW, and persons twenty-one years of age or younger receiving a GED certificate, must equal or exceed a cumulative scholastic assessment test 1 score of twelve hundred on their first attempt or must equal or exceed a composite American college test score of twenty-seven on their first attempt.

(b) To meet the financial eligibility criteria, a student's family income shall not exceed one hundred thirty-five percent of the state median family income adjusted for family size, as determined by the higher education coordinating board for each graduating class. Students not meeting the eligibility requirements for the first year of scholarship benefits may reapply for the second year of benefits, but must still meet the income standard set by the board for the student's graduating class.

(2) Promise scholarships are not intended to supplant any grant, scholarship, or tax program related to postsecondary education. If the board finds that promise scholarships supplant or reduce any grant, scholarship, or tax program for categories of students, then the board shall adjust the financial eligibility criteria or the amount of scholarship to the level necessary to avoid supplanting.

(3) Within available funds, each qualifying student shall receive two consecutive annual awards, the value of each not to exceed the full-time annual resident tuition rates charged by Washington's community colleges. The higher education coordinating board shall award scholarships to as many students as possible from among those qualifying under this section.

(4) By October 15th of each year, the board shall determine the award amount of the scholarships, after taking into consideration the availability of funds.

(5) The scholarships may only be used for undergraduate coursework at accredited institutions of higher education in the state of Washington.

(6) The scholarships may be used for undergraduate coursework at Oregon institutions of higher education that are part of the border county higher education opportunity project in RCW 28B.80.806 (as recodified by this act) when those institutions offer programs not available at accredited institutions of higher education in Washington state.

(7) The scholarships may be used for college-related expenses, including but not limited to, tuition, room and board, books, and materials.

(8) The scholarships may not be awarded to any student who is pursuing a degree in theology.

(9) The higher education coordinating board may establish satisfactory progress standards for the continued receipt of the promise scholarship.

(10) The higher education coordinating board shall establish the time frame within which the student must use the scholarship.

Sec. 61. RCW 28C.04.545 and 1999 c 28 s 1 are each amended to read as follows:

(1) The respective governing boards of the public technical colleges shall provide fee waivers for a maximum of two years for those recipients of the Washington award for vocational excellence established under RCW 28C.04.520 through 28C.04.540 who received the award before June 30, 1994. To qualify for the waiver, recipients shall enter the public technical college within three years of receiving the award. An above average rating at the technical college in the first year shall be required to qualify for the second-year waiver.

(2) Students named by the work force training and education coordinating board after June 30, 1994, as recipients of the Washington award for vocational excellence under RCW 28C.04.520 through 28C.04.550 shall be eligible to receive a grant for undergraduate course work as authorized under RCW 28B.80.272 (as recodified by this act).

(3)(a) Beginning with awards made during the 1998-99 academic year, recipients must complete using the award before the fall term in the sixth year following the date of the award. For these recipients, eligibility for the award is forfeited after this period.

(b) All persons awarded a Washington award for vocational excellence before the 1995-96 academic year and who have remaining eligibility on April 19, 1999, must complete using the award before September 2002. For these recipients, eligibility for the award is forfeited after this period.

(c) All persons awarded a Washington award for vocational excellence during the 1995-96, 1996-97, and 1997-98 academic years must complete using the award before September 2005. For these recipients, eligibility for the award is forfeited after this period.

Sec. 62. RCW 43.105.825 and 1999 c 285 s 7 are each amended to read as follows:

(1) In overseeing the technical aspects of the K-20 network, the information services board is not intended to duplicate the statutory responsibilities of the higher education coordinating board, the superintendent of public instruction, the information services board, the state librarian, or the governing boards of the institutions of higher education.

(2) The board may not interfere in any curriculum or legally offered programming offered over the network.

(3) ~~((The coordination of telecommunications planning for institutions of higher education as defined in RCW 28B.10.016 remains the responsibility of the higher education coordinating board under RCW 28B.80.600. The board~~

~~may recommend, but not require, revisions to the higher education coordinating board's telecommunications plan.~~

(4)) The responsibility to review and approve standards and common specifications for the network remains the responsibility of the information services board under RCW 43.105.041.

~~((5))~~ (4) The coordination of telecommunications planning for the common schools remains the responsibility of the superintendent of public instruction. Except as set forth in RCW 43.105.041(1)(d), the board may recommend, but not require, revisions to the superintendent's telecommunications plans.

Sec. 63. RCW 43.157.010 and 2003 c 54 s 1 are each amended to read as follows:

(1) For purposes of this chapter and RCW 28A.525.166, 28B.80.330 (as recodified by this act), 28C.18.080, 43.21A.350, 47.06.030, and 90.58.100 and an industrial project of statewide significance is a border crossing project that involves both private and public investments carried out in conjunction with adjacent states or provinces or a private industrial development with private capital investment in manufacturing or research and development. To qualify as an industrial project of statewide significance: (a) The project must be completed after January 1, 1997; (b) the applicant must submit an application for designation as an industrial project of statewide significance to the department of community, trade, and economic development; and (c) the project must have:

(i) In counties with a population of less than or equal to twenty thousand, a capital investment of twenty million dollars;

(ii) In counties with a population of greater than twenty thousand but no more than fifty thousand, a capital investment of fifty million dollars;

(iii) In counties with a population of greater than fifty thousand but no more than one hundred thousand, a capital investment of one hundred million dollars;

(iv) In counties with a population of greater than one hundred thousand but no more than two hundred thousand, a capital investment of two hundred million dollars;

(v) In counties with a population of greater than two hundred thousand but no more than four hundred thousand, a capital investment of four hundred million dollars;

(vi) In counties with a population of greater than four hundred thousand but no more than one million, a capital investment of six hundred million dollars;

(vii) In counties with a population of greater than one million, a capital investment of one billion dollars;

(viii) In counties with fewer than one hundred persons per square mile as determined annually by the office of financial management and published by the department of revenue effective for the period July 1st through June 30th, projected full-time employment positions after completion of construction of fifty or greater;

(ix) In counties with one hundred or more persons per square mile as determined annually by the office of financial management and published by the department of revenue effective for the period July 1st through June 30th, projected full-time employment positions after completion of construction of one hundred or greater; or

(x) Been designated by the director of community, trade, and economic development as an industrial project of statewide significance either: (A) Because the county in which the project is to be located is a distressed county and the economic circumstances of the county merit the additional assistance such designation will bring; or (B) because the impact on a region due to the size and complexity of the project merits such designation.

(2) The term manufacturing shall have the meaning assigned it in RCW 82.61.010.

(3) The term research and development shall have the meaning assigned it in RCW 82.61.010.

(4) The term applicant means a person applying to the department of community, trade, and economic development for designation of a development project as an industrial project of statewide significance.

Sec. 64. RCW 43.79.465 and 2001 2nd sp.s. c 7 s 917 are each amended to read as follows:

The education savings account is created in the state treasury. The account shall consist of all moneys appropriated to the account by the legislature.

(1) Ten percent of legislative appropriations to the education savings account shall be distributed as follows: (a) Fifty percent to the distinguished professorship trust fund under RCW 28B.10.868 (as recodified by this act); (b) seventeen percent to the graduate fellowship trust fund under RCW 28B.10.882 (as recodified by this act); and (c) thirty-three percent to the college faculty awards trust fund under RCW 28B.50.837.

(2) The remaining moneys in the education savings account may be appropriated solely for (a) common school construction projects that are eligible for funding from the common school construction account, (b) technology improvements in the common schools, and (c) during the 2001-03 fiscal biennium, technology improvements in public higher education institutions.

Sec. 65. RCW 28B.15.760 and 1985 c 370 s 79 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28B.15.762 and 28B.15.764.

(1) "Institution of higher education" or "institution" means a college or university in the state of Washington which is a member institution of an accrediting association recognized as such by rule of the higher education coordinating board.

(2) "Board" means the higher education coordinating board.

(3) "Eligible student" means a student registered for at least ten credit hours or the equivalent and demonstrates achievement of a 3.00 grade point average for each academic year, who is a resident student as defined by RCW 28B.15.012 through 28B.15.015, who is a "needy student" as defined in RCW 28B.10.802 (as recodified by this act), and who has a declared major in a program leading to a degree in teacher education in a field of science or mathematics, or a certificated teacher who meets the same credit hour and "needy student" requirements and is seeking an additional degree in science or mathematics.

(4) "Public school" means a middle school, junior high school, or high school within the public school system referred to in Article IX of the state Constitution.

(5) "Forgiven" or "to forgive" means to collect service as a teacher in a field of science or mathematics at a public school in the state of Washington in lieu of monetary payment.

(6) "Satisfied" means paid-in-full.

(7) "Borrower" means an eligible student who has received a loan under RCW 28B.15.762.

Sec. 66. RCW 28B.15.820 and 1995 1st sp.s. c 9 s 10 are each amended to read as follows:

(1) Each institution of higher education, including technical colleges, shall deposit a minimum of three and one-half percent of revenues collected from tuition and services and activities fees in an institutional financial aid fund that is hereby created and which shall be held locally. Moneys in the fund shall be used only for the following purposes: (a) To make guaranteed long-term loans to eligible students as provided in subsections (3) through (8) of this section; (b) to make short-term loans as provided in subsection (9) of this section; or (c) to provide financial aid to needy students as provided in subsection (10) of this section.

(2) An "eligible student" for the purposes of subsections (3) through (8) and (10) of this section is a student registered for at least six credit hours or the equivalent, who is eligible for resident tuition and fee rates as defined in RCW 28B.15.012 (~~((through and))~~) and 28B.15.013, and who is a "needy student" as defined in RCW 28B.10.802 (as recodified by this act).

(3) The amount of the guaranteed long-term loans made under this section shall not exceed the demonstrated financial need of the student. Each institution shall establish loan terms and conditions which shall be consistent with the terms of the guaranteed loan program established by 20 U.S. Code Section 1071 et seq., as now or hereafter amended. All loans made shall be guaranteed by the Washington student loan guaranty association or its successor agency. Institutions are hereby granted full authority to operate as an eligible lender under the guaranteed loan program.

(4) Before approving a guaranteed long-term loan, each institution shall analyze the ability of the student to repay the loan based on factors which include, but are not limited to, the student's accumulated total education loan burdens and the employment opportunities and average starting salary characteristics of the student's chosen fields of study. The institution shall counsel the student on the advisability of acquiring additional debt, and on the availability of other forms of financial aid.

(5) Each institution is responsible for collection of guaranteed long-term loans made under this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Institutions shall cooperate with other lenders and the Washington student loan guaranty association, or its successor agency, in the coordinated collection of guaranteed loans, and shall assure that the guarantability of the loans is not violated. Collection and servicing of guaranteed long-term loans under this section shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency:

PROVIDED, That institutions be permitted to perform such servicing if specifically recognized to do so by the Washington student loan guaranty association or its successor agency. Collection and servicing of guaranteed long-term loans made by community colleges under subsection (1) of this section shall be coordinated by the state board for community and technical colleges and shall be conducted under procedures adopted by the state board.

(6) Receipts from payment of interest or principal or any other subsidies to which institutions as lenders are entitled, that are paid by or on behalf of borrowers of funds under subsections (3) through (8) of this section, shall be deposited in each institution's financial aid fund and shall be used to cover the costs of making the guaranteed long-term loans under this section and maintaining necessary records and making collections under subsection (5) of this section: PROVIDED, That such costs shall not exceed five percent of aggregate outstanding loan principal. Institutions shall maintain accurate records of such costs, and all receipts beyond those necessary to pay such costs, shall be deposited in the institution's financial aid fund.

(7) The governing boards of the state universities, the regional universities, and The Evergreen State College, and the state board for community and technical colleges, on behalf of the community colleges and technical colleges, shall each adopt necessary rules and regulations to implement this section.

(8) First priority for any guaranteed long-term loans made under this section shall be directed toward students who would not normally have access to educational loans from private financial institutions in Washington state, and maximum use shall be made of secondary markets in the support of loan consolidation.

(9) Short-term loans, not to exceed one year, may be made from the institutional financial aid fund to students enrolled in the institution. No such loan shall be made to any student who is known by the institution to be in default or delinquent in the payment of any outstanding student loan. A short-term loan may be made only if the institution has ample evidence that the student has the capability of repaying the loan within the time frame specified by the institution for repayment.

(10) Any moneys deposited in the institutional financial aid fund that are not used in making long-term or short-term loans may be used by the institution for locally-administered financial aid programs for needy students, such as need-based institutional employment programs or need-based tuition and fee scholarship or grant programs. These funds shall be used in addition to and not to replace institutional funds that would otherwise support these locally-administered financial aid programs. First priority in the use of these funds shall be given to needy students who have accumulated excessive educational loan burdens. An excessive educational loan burden is a burden that will be difficult to repay given employment opportunities and average starting salaries in the student's chosen fields of study. Second priority in the use of these funds shall be given to needy single parents, to assist these students with their educational expenses, including expenses associated with child care and transportation.

Sec. 67. RCW 28B.101.020 and 2003 c 233 s 3 are each amended to read as follows:

(1) For the purposes of this chapter, "placebound" means unable to complete a college program because of family or employment commitments, health concerns, monetary inability, or other similar factors.

(2) To be eligible for an educational opportunity grant, applicants must be placebound residents of the state of Washington as defined in RCW 28B.15.012(2) (a) through (d), who: (a) Are needy students as defined in RCW 28B.10.802(3) (as recodified by this act); and (b) have completed the associate of arts or associate of science degree or the equivalent. A placebound resident is one who may be influenced by the receipt of an enhanced student financial aid award to complete a baccalaureate degree at an eligible institution. An eligible placebound applicant is further defined as a person who would be unable to complete a baccalaureate course of study but for receipt of an educational opportunity grant.

Sec. 68. RCW 28B.102.040 and 1987 c 437 s 4 are each amended to read as follows:

The higher education coordinating board shall establish a planning committee to develop criteria for the screening and selection of recipients of the conditional scholarships. These criteria shall emphasize factors demonstrating excellence including but not limited to superior scholastic achievement, leadership ability, community contributions, and an ability to act as a role model for targeted ethnic minority students. These criteria also may include, for approximately half of the recipients, requirements that those recipients meet the definition of "needy student" under RCW 28B.10.802 (as recodified by this act).

Sec. 69. RCW 28B.108.010 and 1991 c 228 s 10 are each amended to read as follows:

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

(1) "Institution of higher education" or "institution" means a college or university in the state of Washington which is accredited by an accrediting association recognized as such by rule of the higher education coordinating board.

(2) "Board" means the higher education coordinating board.

(3) "Eligible student" or "student" means an American Indian who is a financially needy student, as defined in RCW 28B.10.802 (as recodified by this act), who is a resident student, as defined by RCW 28B.15.012(2), who is a full-time student at an institution of higher education, and who promises to use his or her education to benefit other American Indians.

Sec. 70. RCW 28B.115.050 and 1991 c 332 s 18 are each amended to read as follows:

The board shall establish a planning committee to assist it in developing criteria for the selection of participants. The board shall include on the planning committee representatives of the department, the department of social and health services, appropriate representatives from health care facilities, provider groups, consumers, the state board (~~(of community college education)~~) for community and technical colleges, the superintendent of public instruction, and other appropriate public and private agencies and organizations. The criteria may require that some of the participants meet the definition of "needy student" under RCW 28B.10.802 (as recodified by this act).

Sec. 71. RCW 28B.119.030 and 2002 c 204 s 4 are each amended to read as follows:

The Washington promise scholarship program shall not be funded at the expense of the state need grant program as defined in (~~RCW 28B.10.800 through 28B.10.824~~) chapter 28B.— RCW (as created in section 78 of this act). In administering the state need grant and promise scholarship programs, the higher education coordinating board shall first ensure that eligibility for state need grant recipients is at least fifty-five percent of state median family income.

Sec. 72. RCW 28B.133.010 and 2003 c 19 s 2 are each amended to read as follows:

The educational assistance grant program for students with dependents is hereby created, subject to the availability of receipts of gifts, grants, or endowments from private sources. The program is created to serve financially needy students with dependents eighteen years of age or younger, by assisting them directly through a grant program to pursue a degree or certificate at public or private institutions of higher education, as defined in RCW 28B.10.802 (as recodified by this act), that participate in the state need grant program.

Sec. 73. RCW 28B.133.020 and 2003 c 19 s 3 are each amended to read as follows:

To be eligible for the educational assistance grant program for students with dependents, applicants shall: (1) Be residents of the state of Washington; (2) be needy students as defined in RCW 28B.10.802(3) (as recodified by this act); (3) be eligible to participate in the state need grant program as set forth under RCW 28B.10.810 (as recodified by this act); and (4) have dependents eighteen years of age or younger who are under their care.

Sec. 74. RCW 28B.133.050 and 2003 c 19 s 6 are each amended to read as follows:

The educational assistance grant program for students with dependents grants may be used by eligible participants to attend any public or private college or university in the state of Washington as defined in RCW 28B.10.802 (as recodified by this act). Each participating student may receive an amount to be determined by the higher education coordinating board, with a minimum amount of one thousand dollars per academic year, not to exceed the student's documented financial need for the course of study as determined by the institution.

Educational assistance grants for students with dependents are not intended to supplant any grant scholarship or tax program related to postsecondary education. If the higher education coordinating board finds that the educational assistance grants for students with dependents supplant or reduce any grant, scholarship, or tax program for categories of students, then the higher education coordinating board shall adjust the financial eligibility criteria or the amount of the grant to the level necessary to avoid supplanting.

NEW SECTION. **Sec. 75.** The following acts or parts of acts are each repealed:

(1) RCW 28B.10.210 (Blind students, assistance to—"Blind student" defined) and 1969 ex.s. c 223 s 28B.10.210;

(2) RCW 28B.10.215 (Blind students, assistance to—Allocation of funds) and 1985 c 370 s 51, 1982 1st ex.s. c 37 s 6, 1974 ex.s. c 68 s 1, & 1969 ex.s. c 223 s 28B.10.215;

(3) RCW 28B.10.220 (Blind students, assistance to—Administration of funds) and 1985 c 370 s 52, 1982 1st ex.s. c 37 s 7, 1974 ex.s. c 68 s 2, & 1969 ex.s. c 223 s 28B.10.220;

(4) RCW 28B.10.824 (State student financial aid program—Commission, executive director, employees—Appointment—Salaries) and 1973 c 62 s 5 & 1969 ex.s. c 222 s 20;

(5) RCW 28B.10.874 (Distinguished professorship trust fund program—Transfer of administration—Recommendations to governor and legislature) and 1987 c 8 s 9;

(6) RCW 28B.10.887 (Graduate fellowship trust fund program—Transfer of administration) and 1998 c 245 s 14 & 1987 c 147 s 8;

(7) RCW 28B.80.255 (Washington award for excellence—Use of academic grant) and 1992 c 83 s 3, 1992 c 50 s 2, & 1991 c 255 s 6;

(8) RCW 28B.80.265 (Washington award for excellence—Rules) and 1992 c 83 s 4 & 1991 c 255 s 7;

(9) RCW 28B.80.290 (Statewide transfer of credit policy and agreement—Requirements) and 1983 c 304 s 2;

(10) RCW 28B.80.320 (Purpose) and 1985 c 370 s 3;

(11) RCW 28B.80.340 (Program responsibilities) and 2003 c 130 s 4 & 1985 c 370 s 5;

(12) RCW 28B.80.440 (Interstate discussions and agreements about standards and programs for teachers, administrators, and educational staff associates) and 1987 c 40 s 1;

(13) RCW 28B.80.442 (Interstate discussions—Support and services of western interstate commission on higher education) and 1987 c 40 s 2;

(14) RCW 28B.80.450 (Placebound students—Study of needs) and 1990 c 288 s 1;

(15) RCW 28B.80.500 (Branch campuses—Adjustment of enrollment lids) and 1989 1st ex.s. c 7 s 2;

(16) RCW 28B.80.520 (Branch campuses—Facilities acquisition) and 1989 1st ex.s. c 7 s 9;

(17) RCW 28B.80.600 (Coordination of telecommunications planning) and 1996 c 137 s 9 & 1990 c 208 s 9;

(18) RCW 28B.80.610 (Higher education institutional responsibilities) and 2003 c 130 s 5 & 1993 c 363 s 2;

(19) RCW 28B.80.612 (Identification of methods to reduce administrative barriers) and 1998 c 245 s 25 & 1993 c 363 s 3;

(20) RCW 28B.80.614 (Study of higher education system operations) and 1993 c 363 s 4;

(21) RCW 28B.80.616 (Reports to legislature and citizens on postsecondary educational system—Reports to board from state board for community and technical colleges and state institutions of higher education—Cooperation with independent colleges and universities) and 1993 c 363 s 5;

(22) RCW 28B.80.910 (Severability—1969 ex.s. c 277) and 1969 ex.s. c 277 s 15;

(23) RCW 28B.80.911 (Severability—1985 c 370) and 1985 c 370 s 107;

(24) RCW 28B.80.912 (Effective dates—1985 c 370) and 1985 c 370 s 108;
 (25) RCW 28A.305.280 (Forum for education issues) and 1994 c 222 s 1;
 and

(26) RCW 28A.305.285 (Forum for education issues—Task force) and 1997 c 222 s 3 & 1994 c 222 s 2.

NEW SECTION. Sec. 76. Sections 1, 9, 11, and 12 of this act constitute a new chapter in Title 28B RCW.

NEW SECTION. Sec. 77. (1) The following sections are codified or recodified in the order shown in Part I, General Provisions, of the chapter created in section 76 of this act:

- (a) RCW 28B.80.300;
- (b) RCW 28B.80.310;
- (c) Section 1 of this act;
- (d) RCW 28B.80.390;
- (e) RCW 28B.80.400;
- (f) RCW 28B.80.410;
- (g) RCW 28B.80.420;
- (h) RCW 28B.80.110;
- (i) RCW 28B.80.430;
- (j) RCW 28B.80.380;
- (k) RCW 28B.80.200; and
- (l) RCW 28B.80.370.

(2) The following sections are codified or recodified in the order shown in Part II, Policy and Planning, of the chapter created in section 76 of this act:

- (a) RCW 28B.80.345;
- (b) RCW 28B.80.330;
- (c) RCW 28B.80.335;
- (d) Section 9 of this act;
- (e) RCW 28B.80.280;
- (f) Section 11 of this act;
- (g) Section 12 of this act;
- (h) RCW 28B.80.350;
- (i) RCW 28B.10.044;
- (j) RCW 28B.15.070;
- (k) RCW 28B.15.076; and
- (l) RCW 28B.80.175.

(3) The following sections are recodified in the order shown in Part III, Education Services Administration, of the chapter created in section 76 of this act:

- (a) RCW 28B.80.240;
- (b) RCW 28B.80.210;
- (c) RCW 28B.80.230;
- (d) RCW 28B.80.180;
- (e) RCW 28B.80.360;
- (f) RCW 28B.10.859;
- (g) RCW 28B.10.866;
- (h) RCW 28B.10.867;
- (i) RCW 28B.10.868;

- (j) RCW 28B.10.869;
- (k) RCW 28B.10.870;
- (l) RCW 28B.10.871;
- (m) RCW 28B.10.872;
- (n) RCW 28B.10.873;
- (o) RCW 28B.10.880;
- (p) RCW 28B.10.881;
- (q) RCW 28B.10.882;
- (r) RCW 28B.10.883;
- (s) RCW 28B.10.884;
- (t) RCW 28B.10.885;
- (u) RCW 28B.10.886;
- (v) RCW 28B.80.150;
- (w) RCW 28B.80.160;
- (x) RCW 28B.80.170;
- (y) RCW 28B.80.245;
- (z) RCW 28B.80.246;
- (aa) RCW 28B.80.272;
- (bb) RCW 28B.80.805;
- (cc) RCW 28B.80.806;
- (dd) RCW 28B.80.807;
- (ee) RCW 28B.80.620;
- (ff) RCW 28B.80.622;
- (gg) RCW 28B.80.624;
- (hh) RCW 28B.80.626; and
- (ii) RCW 28B.80.810.

NEW SECTION. Sec. 78. The following sections are recodified in a new chapter in Title 28B RCW:

- (1) RCW 28B.10.800;
- (2) RCW 28B.10.801;
- (3) RCW 28B.10.802;
- (4) RCW 28B.10.804;
- (5) RCW 28B.10.806;
- (6) RCW 28B.10.808;
- (7) RCW 28B.10.8081;
- (8) RCW 28B.10.810;
- (9) RCW 28B.10.812;
- (10) RCW 28B.10.814;
- (11) RCW 28B.10.816;
- (12) RCW 28B.10.818;
- (13) RCW 28B.10.820;
- (14) RCW 28B.10.821; and
- (15) RCW 28B.10.822.

NEW SECTION. Sec. 79. RCW 28B.80.510 is recodified as a new section in chapter 28B.45 RCW.

NEW SECTION. Sec. 80. Part headings used in this act are not part of the law.

NEW SECTION. **Sec. 81.** Sections 26 and 27 of this act expire January 30, 2005.

Passed by the House March 10, 2004.

Passed by the Senate March 3, 2004.

Approved by the Governor April 1, 2004, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 1, 2004.

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

"I am returning herewith, without my approval as to section 13, Substitute House Bill No. 3103 entitled:

"AN ACT Relating to higher education;"

Substitute House Bill No. 3103 refines the roles and responsibilities of the Higher Education Coordinating Board (HECB) to more clearly focus on appropriate administrative and policy functions, and relieves the board of duties that are either outdated or unnecessary.

Section 13 of the bill would have authorized the HECB to manage a competitive process for awarding high demand enrollments that both public baccalaureate institutions and private independent institutions would have been eligible for. In this time of fiscal restraint, we should first direct our limited state resources to providing opportunities for students to fill existing capacity in public institutions before allowing private independent institutions to compete for state enrollment funds.

Given the demographic pressure on the higher education system in the next few years, we cannot ignore the important role that independent colleges and universities can play in meeting student demand. I believe, however, that the state must carefully consider all options before implementing such a significant change in fiscal policy for higher education. Thus, I am directing the HECB to work with the Office of Financial Management and key stakeholders to develop options for utilizing capacity in private independent institutions to help meet student demand for access to higher education.

For these reasons, I have vetoed section 13 of Substitute House Bill No. 3103.

With the exception of section 13, Substitute House Bill No. 3103 is approved."

CHAPTER 276

[Engrossed Substitute House Bill 2459]

OPERATING BUDGET

AN ACT Relating to fiscal matters; amending RCW 9.46.100, 28A.160.195, 28B.102.040, 28B.119.010, 43.83.020, 43.88.030, 43.105.830, 43.105.835, 49.70.170, 69.50.520, 74.46.431, and 79.90.245; amending 2003 1st sp.s. c 25 ss 101, 102, 103, 104, 109, 110, 111, 113, 114, 115, 118, 121, 122, 123, 124, 125, 126, 128, 129, 137, 138, 140, 141, 135, 142, 143, 146, 147, 148, 150, 151, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 217, 219, 220, 221, 222, 226, 216, 225, 302, 303, 304, 305, 306, 307, 308, 309, 401, 402, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 703, 704, 709, 712, 715, 718, 723, 710, 720, 801, 805, and 806 (uncodified); adding a new section to chapter 43.330 RCW; adding new sections to 2003 1st sp.s. c 25 (uncodified); making appropriations; and declaring an emergency.

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

**PART I
GENERAL GOVERNMENT**

Sec. 101. 2003 1st sp.s. c 25 s 101 (uncodified) is amended to read as follows:

FOR THE HOUSE OF REPRESENTATIVES

General Fund—State Appropriation (FY 2004)	\$28,109,000
General Fund—State Appropriation (FY 2005)	(\$28,233,000)
	<u>\$28,308,000</u>
Department of Retirement Systems Expense Account—	
State Appropriation	\$45,000
TOTAL APPROPRIATION	(\$56,387,000)
	<u>\$56,462,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$25,000 of the general fund—state appropriation is provided for allocation to Project Citizen, a program of the national conference of state legislatures to promote student civic involvement.

Sec. 102. 2003 1st sp.s. c 25 s 102 (uncodified) is amended to read as follows:

FOR THE SENATE

General Fund—State Appropriation (FY 2004)	\$22,001,000
General Fund—State Appropriation (FY 2005)	(\$23,173,000)
	<u>\$23,248,000</u>
Department of Retirement Systems Expense Account—	
State Appropriation	\$45,000
TOTAL APPROPRIATION	(\$45,219,000)
	<u>\$45,294,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$25,000 of the general fund—state appropriation is provided for allocation to Project Citizen, a program of the national conference of state legislatures to promote student civic involvement.

***Sec. 103.** 2003 1st sp.s. c 25 s 103 (uncodified) is amended to read as follows:

FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

General Fund—State Appropriation (FY 2004)	\$1,627,000
General Fund—State Appropriation (FY 2005)	(\$1,717,000)
	<u>\$2,242,000</u>
TOTAL APPROPRIATION	(\$3,344,000)
	<u>\$3,869,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$150,000 of the state general fund appropriation for fiscal year 2005 is provided for a performance audit of the policies and practices of the state wildfire suppression program. Annual fire suppression costs averaged \$11,000,000 for the ten years ending with fiscal year 2001, yet have increased to an average of \$31,000,000 per year for fiscal years 2002, 2003, and 2004. The

legislature realizes that overall forest health issues may contribute to some of this increase, but the legislature intends to evaluate the full range of causes for such large increases in fire suppression costs. The performance audit shall include, but not be limited to:

(a) A review of how current fire suppression practices comply with the policies and intent of chapter 76.04 RCW;

(b) An examination of the factors that are contributing to the recent increase in the cost of fire suppression. The examination shall include a review of changes in the use of high-cost equipment and services; changes in the level of reimbursement for contractors and employees; changes in the use of permanent agency employees for fire suppression compared to the use of temporary employees, inmate labor, and contractors; and changes in other significant costs. The examination shall include an analysis of how the respective responsibilities of various state agencies, local fire districts, and federal agencies are used to determine cost allocation among the responsible agencies;

(c) An examination of how the department of natural resources determines the proportion of fire suppression costs charged to private parties and the landowners contingency account; and

(d) Any findings and recommendations from the state auditor's office related to fire suppression costs.

A final report of the performance audit shall be provided to the appropriate fiscal and policy committees of the legislature by June 30, 2005.

(2) \$50,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for a study of state and national trends for prevalence of developmental disabilities including autism, mental retardation, cerebral palsy, and other major developmental disabilities. The study shall include but not be limited to a review of:

(a) Epidemiological studies on the causes of developmental disabilities;

(b) On-going population-based surveillance being conducted in other states;

(c) Genetic and environmental factors that may be contributing to an increase in developmental disabilities; and

(d) Data sources specific to Washington state.

A report shall be submitted to the appropriate committees of the legislature by December 1, 2004.

(3) \$25,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for a study of the distribution of gambling revenues in Washington and other states. The study shall include, but not necessarily be limited to, a survey of the types of gambling allowed by state, local, and tribal governments; the types of revenues from gambling, such as fees, taxation, and revenue sharing; and the distribution to state, local, and tribal governments of those revenues. The committee shall report the study findings to the appropriate policy and fiscal committees of the legislature no later than December 1, 2004.

(4) \$25,000 of the fiscal year 2005 general fund—state appropriation is provided solely for a study evaluating the state's current rules related to the licensing and testing requirements for heating, ventilation and air conditioning contractors and installers. The study shall develop recommendations for modifications in licensing and testing requirements.

(5) \$100,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the joint legislative audit and review committee and the state auditor's office to conduct a legal and financial review of alternative learning experience programs under WAC 392-121-182. The joint legislative audit and review committee shall be the lead agency in conducting the review. Prior to undertaking this review, the joint legislative audit and review committee and the state auditor's office shall develop a mutually acceptable work plan for conducting the review, detailing the roles and responsibilities of the two agencies and the topics to be covered in the review. The topics should include, but not be limited to: (a) Numbers of students served, variations in program types, and funding patterns for alternative learning experience programs, including digital curriculum and online courses; (b) the adequacy of current rules, regulations, and procedures to safeguard against the misuse of public resources based on any deficiencies identified in the state auditor's audit of alternative learning experience programs due to be completed in May 2004; (c) identification of policy and administrative options to address and correct such identified deficiencies; and (d) the potential fiscal impacts of any proposed options for changes to alternative learning experience programs. The staff of the joint legislative audit and review committee shall work with fiscal staff of the senate, the house of representatives, and the office of financial management in identifying these potential fiscal impacts. The joint legislative audit and review committee shall provide an interim report by February 1, 2005, and a final report by July 1, 2005, of its findings and recommendations to the appropriate policy and fiscal committees of the legislature. School districts are authorized to operate digital learning curriculum and/or online courses of study under current district procedures and practices until June 30, 2005.

(6) \$25,000 of the general fund—state appropriation for fiscal year 2005 is provided solely to study current and potential methods of bidding and purchasing school buses for home-to-school transportation. The purpose of the study is to recommend methods and systems for obtaining competitive prices for state reimbursement purposes and for district purchasing purposes while at the same time allowing local school district control over decisions concerning the management of pupil transportation systems and the make-up of bus fleets. The study shall examine bidding and purchasing methods and procedures used in other states and compare the results of those methods with the results of current and past methods employed by the office of the superintendent of public instruction, purchasing organizations, and school districts in this state. A preliminary report, including recommendations, shall be available by December 2004.

(7) \$150,000 of the general fund—state appropriation for fiscal year 2005 is provided solely to implement Third Engrossed Substitute House Bill No. 1053 (government accountability). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

*Sec. 103 was partially vetoed. See message at end of chapter.

Sec. 104. 2003 1st sp.s. c 25 s 104 (uncodified) is amended to read as follows:

FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE
 General Fund—State Appropriation (FY 2004)((~~\$1,656,000~~))

	<u>\$1,631,000</u>
General Fund—State Appropriation (FY 2005)	(((\$1,799,000))
	<u>\$1,774,000</u>
TOTAL APPROPRIATION	(((\$3,455,000))
	<u>\$3,405,000</u>

~~((The appropriations in this section are subject to the following conditions and limitations: \$25,000 of the general fund—state appropriation for fiscal year 2004 and \$25,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the legislative evaluation and accountability program committee, in consultation with the economic and revenue forecast council, to establish and maintain a set of economic indicators that could be used for adjusting the statewide salary schedule by a regional cost-of-living index. The economic indicators to be included in this index include but are not limited to the median cost of housing:~~

~~(1) In developing the regional cost of living index, the legislative evaluation and accountability program committee shall collect data on the economic activity comprising the cost of living indexes for geographic areas of the state coterminous with the boundaries of the nine educational service districts established under RCW 28A.310.010.~~

~~(2) Not later than July 1, 2004, the legislative evaluation and accountability program committee shall submit the regional cost of living index to an advisory committee for its review. The advisory committee shall be appointed by the governor and shall consist of one member representing the office of financial management, one member representing the employment security department, one member representing the office of the superintendent of public instruction, and three representatives of the private sector having demonstrated expertise in regional economies. The advisory committee shall not receive compensation for performance of its duties but may be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.~~

~~(3) Not later than October 1, 2004, the advisory committee created under this section shall submit to the director of the legislative evaluation and accountability program committee written comment on the proposed regional cost of living index. The written comment may include recommendations for revision to the index or its components:))~~

Sec. 105. 2003 1st sp.s. c 25 s 109 (uncodified) is amended to read as follows:

FOR THE SUPREME COURT

General Fund—State Appropriation (FY 2004)	(((\$5,462,000))
	<u>\$5,475,000</u>
General Fund—State Appropriation (FY 2005)	(((\$5,665,000))
	<u>\$5,720,000</u>
TOTAL APPROPRIATION	(((\$11,127,000))
	<u>\$11,195,000</u>

Sec. 106. 2003 1st sp.s. c 25 s 110 (uncodified) is amended to read as follows:

FOR THE LAW LIBRARY

General Fund—State Appropriation (FY 2004)	(((\$2,045,000))
--	------------------

	<u>\$2,049,000</u>
General Fund—State Appropriation (FY 2005)	\$2,050,000
TOTAL APPROPRIATION	(((\$4,095,000)) <u>\$4,099,000</u>)

Sec. 107. 2003 1st sp.s. c 25 s 111 (uncodified) is amended to read as follows:

FOR THE COURT OF APPEALS

General Fund—State Appropriation (FY 2004)	(((\$12,510,000)) <u>\$12,523,000</u>)
General Fund—State Appropriation (FY 2005)	(((\$12,747,000)) <u>\$12,931,000</u>)
TOTAL APPROPRIATION	(((\$25,257,000)) <u>\$25,454,000</u>)

Sec. 108. 2003 1st sp.s. c 25 s 113 (uncodified) is amended to read as follows:

FOR THE ADMINISTRATOR FOR THE COURTS

General Fund—State Appropriation (FY 2004)	(((\$17,295,000)) <u>\$17,374,000</u>)
General Fund—State Appropriation (FY 2005)	(((\$17,340,000)) <u>\$18,036,000</u>)
Public Safety and Education Account—State Appropriation	(((\$43,389,000)) <u>\$43,534,000</u>)
Judicial Information Systems Account—State Appropriation	(((\$27,903,000)) <u>\$31,803,000</u>)
TOTAL APPROPRIATION	(((\$105,927,000)) <u>\$110,747,000</u>)

The appropriations in this section are subject to the following conditions and limitations:

(1) The judicial information systems account appropriation shall be used for the operations and maintenance of technology systems that improve services provided by the supreme court, the court of appeals, the office of public defense, and the administrator for the courts.

(2) \$750,000 of the general fund—state appropriation for fiscal year 2004 and \$750,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for court-appointed special advocates in dependency matters. The administrator for the courts, after consulting with the association of juvenile court administrators and the association of court-appointed special advocate/guardian ad litem programs, shall distribute the funds to volunteer court-appointed special advocate/guardian ad litem programs. The distribution of funding shall be based on the number of children who need volunteer court-appointed special advocate representation and shall be equally accessible to all volunteer court-appointed special advocate/guardian ad litem programs. The administrator for the courts shall not retain more than six percent of total funding to cover administrative or any other agency costs.

(3) (~~(\$12,572,000)~~) \$16,172,000 of the judicial information systems account—state appropriation is provided solely for improvements and enhancements to the judicial information system. (~~(This funding shall only be expended after the office of the administrator for the courts certifies to the office of financial management that there will be at least a \$1,000,000 ending fund balance in the judicial information systems account at the end of the 2003-05 biennium.)~~) Of this amount, \$1,100,000 is provided solely for disaster recovery planning, equipment, and testing for the judicial information system.

(4) \$3,000,000 of the public safety and education account—state appropriation is provided solely for school district petitions to juvenile court for truant students as provided in RCW 28A.225.030 and 28A.225.035. The office of the administrator for the courts shall develop an interagency agreement with the office of the superintendent of public instruction to allocate the funding provided in this subsection. Allocation of this money to school districts shall be based on the number of petitions filed.

(5) \$13,224,000 of the public safety and education account—state appropriation is provided solely for distribution to county juvenile court administrators to fund the costs of processing truancy, children in need of services, and at-risk youth petitions. The office of the administrator for the courts shall not retain any portion of these funds to cover administrative costs. The office of the administrator for the courts, in conjunction with the juvenile court administrators, shall develop an equitable funding distribution formula. The formula shall neither reward counties with higher than average per-petition processing costs nor shall it penalize counties with lower than average per-petition processing costs.

(6) The distributions made under subsection (6) of this section and distributions from the county criminal justice assistance account made pursuant to section 801 of this act constitute appropriate reimbursement for costs for any new programs or increased level of service for purposes of RCW 43.135.060.

(7) Each fiscal year during the 2003-05 fiscal biennium, each county shall report the number of petitions processed and the total actual costs of processing truancy, children in need of services, and at-risk youth petitions. Counties shall submit the reports to the (~~(department)~~) administrator for the courts no later than 45 days after the end of the fiscal year. The (~~(department)~~) administrator for the courts shall electronically transmit this information to the chairs and ranking minority members of the house of representatives appropriations committee and the senate ways and means committee no later than 60 days after a fiscal year ends. These reports are deemed informational in nature and are not for the purpose of distributing funds.

(8) \$813,000 of the general fund—state appropriation for fiscal year 2004 and \$762,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for billing and related costs for the office of the administrator for the courts pursuant to Engrossed Substitute Senate Bill No. 5990 (supervision of offenders).

(9) \$1,800,000 of the public safety and education account appropriation is provided solely for distribution to the county clerks for the collection of legal financial obligations pursuant to Engrossed Substitute Senate Bill No. 5990 (supervision of offenders). The funding shall be distributed by the office of the administrator for the courts to the county clerks in accordance with the funding

formula determined by the Washington association of county officials pursuant to Engrossed Substitute Senate Bill No. 5990 (supervision of offenders).

Sec. 109. 2003 1st sp.s. c 25 s 114 (uncodified) is amended to read as follows:

FOR THE OFFICE OF PUBLIC DEFENSE

General Fund—State Appropriation (FY 2004)	\$666,000
General Fund—State Appropriation (FY 2005)	\$884,000
Public Safety and Education Account—State Appropriation	(\$12,395,000)
	<u>\$12,783,000</u>
TOTAL APPROPRIATION	(\$13,945,000)
	<u>\$14,333,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$51,000 of the public safety and education account appropriation is provided solely for the office of public defense's costs in implementing chapter 303, Laws of 1999 (court funding).

(2) Amounts provided from the public safety and education account appropriation in this section include funding for investigative services in death penalty personal restraint petitions.

Sec. 110. 2003 1st sp.s. c 25 s 115 (uncodified) is amended to read as follows:

FOR THE OFFICE OF THE GOVERNOR

General Fund—State Appropriation (FY 2004)	\$3,773,000
General Fund—State Appropriation (FY 2005)	(\$3,776,000)
	<u>\$4,011,000</u>
General Fund—Federal Appropriation	\$1,140,000
Water Quality Account—State Appropriation	\$3,854,000
TOTAL APPROPRIATION	(\$12,543,000)
	<u>\$12,778,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$3,854,000 of the water quality account appropriation and \$1,140,000 of the general fund—federal appropriation are provided solely for the Puget Sound water quality action team to implement the Puget Sound work plan and agency action items PSAT-01 through PSAT-05.

***Sec. 111.** 2003 1st sp.s. c 25 s 118 (uncodified) is amended to read as follows:

FOR THE SECRETARY OF STATE

<i>General Fund—State Appropriation (FY 2004)</i>	<i>(\$24,336,000)</i>
	<u><i>\$18,298,000</i></u>
General Fund—State Appropriation (FY 2005)	\$17,092,000
General Fund—Federal Appropriation	\$6,967,000
Archives and Records Management Account—State Appropriation	(\$8,150,000)
	<u>\$8,414,000</u>

Department of Personnel Service Account—State	
Appropriation	\$699,000
<u>Election Account—State Appropriation</u>	<u>\$3,140,000</u>
Election Account—Federal Appropriation	(\$13,121,000)
	<u>\$33,121,000</u>
Local Government Archives Account—State Appropriation	(\$7,067,000)
	<u>\$9,010,000</u>
TOTAL APPROPRIATION	(\$77,432,000)
	<u>\$96,741,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,296,000 of the general fund—state appropriation for fiscal year 2004 is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures. Counties shall be reimbursed only for those odd-year election costs that the secretary of state validates as eligible for reimbursement.

(2) \$1,826,000 of the general fund—state appropriation for fiscal year 2004 and \$2,686,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the verification of initiative and referendum petitions, maintenance of related voter registration records, and the publication and distribution of the voters and candidates pamphlet.

(3) \$125,000 of the general fund—state appropriation for fiscal year 2004 and \$118,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for legal advertising of state measures under RCW 29.27.072.

(4)(a) \$1,944,004 of the general fund—state appropriation for fiscal year 2004 and \$1,986,772 of the general fund—state appropriation for fiscal year 2005 are provided solely for contracting with a nonprofit organization to produce gavel-to-gavel television coverage of state government deliberations and other events of statewide significance during the 2003-05 biennium. The funding level for each year of the contract shall be based on the amount provided in this subsection. The nonprofit organization shall be required to raise contributions or commitments to make contributions, in cash or in kind, in an amount equal to forty percent of the state contribution. The office of the secretary of state may make full or partial payment once all criteria in (a) and (b) of this subsection have been satisfactorily documented.

(b) The legislature finds that the commitment of on-going funding is necessary to ensure continuous, autonomous, and independent coverage of public affairs. For that purpose, the secretary of state shall enter into a four-year contract with the nonprofit organization to provide public affairs coverage through June 30, 2006.

(c) The nonprofit organization shall prepare an annual independent audit, an annual financial statement, and an annual report, including benchmarks that measure the success of the nonprofit organization in meeting the intent of the program.

(d) No portion of any amounts disbursed pursuant to this subsection may be used, directly or indirectly, for any of the following purposes:

(i) Attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, by any county, city, town, or other

political subdivision of the state of Washington, or by the congress, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency;

(ii) Making contributions reportable under chapter 42.17 RCW; or

(iii) Providing any: (A) Gift; (B) honoraria; or (C) travel, lodging, meals, or entertainment to a public officer or employee.

(5) (~~(\$6,038,000 of the general fund—state appropriation for fiscal year 2004 is provided solely to reimburse the counties for the state's share of the cost of conducting the presidential primary.)~~ \$252,000 of the archives and records management account—state appropriation and \$1,504,000 of the local government archives account—state appropriation are provided solely for additional facility capital costs, digital archive technology architecture costs, and additional digital archive staff and operational costs, associated with the new eastern regional archives and digital archives facility.

(6) The entire election account—state appropriation in this section is provided solely as state match funding for federal moneys provided under the Help America Vote act (P.L. 107-252). Of the state match funding provided, the secretary of state may expend only the amount required to match the federal funding received, and any amount that is not necessary to match the federal funding shall lapse. After receipt of the federal moneys, the office of the secretary of state shall notify the appropriations committee of the house of representatives and the ways and means committee of the senate of the amount of federal funding received and the associated required state match.

*Sec. 111 was partially vetoed. See message at end of chapter.

Sec. 112. 2003 1st sp.s. c 25 s 121 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER

State Treasurer's Service Account—State	
Appropriation.....	(\$13,149,000)
	<u>\$13,463,000</u>

Sec. 113. 2003 1st sp.s. c 25 s 122 (uncodified) is amended to read as follows:

FOR THE STATE AUDITOR

General Fund—State Appropriation (FY 2004)	\$701,000
General Fund—State Appropriation (FY 2005)	(\$702,000)
	<u>\$802,000</u>
State Auditing Services Revolving Account—State	
Appropriation.....	\$12,810,000
TOTAL APPROPRIATION	(\$14,213,000)
	<u>\$14,313,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Audits of school districts by the division of municipal corporations shall include findings regarding the accuracy of: (a) Student enrollment data; and (b) the experience and education of the district's certified instructional staff, as reported to the superintendent of public instruction for allocation of state funding.

(2) \$701,000 of the general fund—state appropriation for fiscal year 2004 and \$702,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for staff and related costs to verify the accuracy of reported school district data submitted for state funding purposes; conduct school district program audits of state funded public school programs; establish the specific amount of state funding adjustments whenever audit exceptions occur and the amount is not firmly established in the course of regular public school audits; and to assist the state special education safety net committee when requested.

(3) \$100,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for a review of emergency fire suppression costs in the department of natural resources. The state auditor's office shall coordinate this study with the joint legislative audit and review committee performance audit of the emergency fire suppression program. The state auditor's review of fire suppression costs shall examine payroll documents and invoices to determine if appropriate controls are in place to ensure that only appropriate emergency fires suppression costs are charged to the emergency fire suppression budget.

Sec. 114. 2003 1st sp.s. c 25 s 123 (uncodified) is amended to read as follows:

FOR THE CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS

General Fund—State Appropriation (FY 2004)	(((\$83,000))
	<u>\$112,000</u>
General Fund—State Appropriation (FY 2005)	(((\$157,000))
	<u>\$192,000</u>
TOTAL APPROPRIATION	(((\$240,000))
	<u>\$304,000</u>

Sec. 115. 2003 1st sp.s. c 25 s 124 (uncodified) is amended to read as follows:

FOR THE ATTORNEY GENERAL

General Fund—State Appropriation (FY 2004)	(((\$4,057,000))
	<u>\$4,345,000</u>
General Fund—State Appropriation (FY 2005)	(((\$4,109,000))
	<u>\$4,166,000</u>
General Fund—Federal Appropriation	\$2,845,000
Public Safety and Education Account—State Appropriation	(((\$1,814,000))
	<u>\$2,001,000</u>
Tobacco Prevention and Control Account—State Appropriation	\$270,000
New Motor Vehicle Arbitration Account—State Appropriation	\$1,180,000
Legal Services Revolving Account—State Appropriation	(((\$165,275,000))
	<u>\$166,624,000</u>
TOTAL APPROPRIATION	(((\$179,550,000))
	<u>\$181,431,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The attorney general shall report each fiscal year on actual legal services expenditures and actual attorney staffing levels for each agency receiving legal services. The report shall be submitted to the office of financial management and the fiscal committees of the senate and house of representatives no later than ninety days after the end of each fiscal year.

(2) Prior to entering into any negotiated settlement of a claim against the state that exceeds five million dollars, the attorney general shall notify the director of financial management and the chairs of the senate committee on ways and means and the house of representatives committee on appropriations.

(3) \$818,000 of the legal services revolving account—state appropriation is provided solely for legal defense costs associated with *Pacific Sound Resources v. Burlington Northern Santa Fe Railroad et al.*

(4) \$70,000 of the legal services revolving account—state appropriation is provided solely to implement Engrossed Second Substitute Senate Bill No. 6489 (correctional industries). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

Sec. 116. 2003 1st sp.s. c 25 s 125 (uncodified) is amended to read as follows:

FOR THE CASELOAD FORECAST COUNCIL

General Fund—State Appropriation (FY 2004)	((\$638,000))
	<u>\$669,000</u>
General Fund—State Appropriation (FY 2005)	((\$639,000))
	<u>\$671,000</u>
TOTAL APPROPRIATION	((\$1,277,000))
	<u>\$1,340,000</u>

Sec. 117. 2003 1st sp.s. c 25 s 126 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

General Fund—State Appropriation (FY 2004)	((\$61,459,000))
	<u>\$61,805,000</u>
General Fund—State Appropriation (FY 2005)	((\$60,801,000))
	<u>\$66,566,000</u>
General Fund—Federal Appropriation	((\$213,287,000))
	<u>\$236,264,000</u>
General Fund—Private/Local Appropriation	((\$10,574,000))
	<u>\$15,075,000</u>
Public Safety and Education Account—State Appropriation	\$10,095,000
Public Works Assistance Account—State Appropriation	((\$1,913,000))
	<u>\$2,088,000</u>
Building Code Council Account—State Appropriation	\$1,061,000
Administrative Contingency Account—State Appropriation	\$1,776,000

Low-Income Weatherization Assistance Account—State	
Appropriation	(((\$3,293,000))
	<u>\$8,293,000</u>
Violence Reduction and Drug Enforcement Account—	
State Appropriation	\$9,013,000
Manufactured Home Installation Training Account—	
State Appropriation	\$256,000
Community Economic Development Account—	
State Appropriation	(((\$1,909,000))
	<u>\$1,581,000</u>
Washington Housing Trust Account—State	
Appropriation	\$16,740,000
Public Facility Construction Loan Revolving	
Account—State Appropriation	\$622,000
Lead Paint Account—State Appropriation	\$6,000
<u>Developmental Disabilities Endowment Trust Fund—</u>	
<u>State Appropriation</u>	<u>\$120,000</u>
<u>Homeless Families Services Fund—State</u>	
<u>Appropriation</u>	<u>\$150,000</u>
TOTAL APPROPRIATION	(((\$392,805,000))
	<u>\$431,511,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,838,000 of the general fund—state appropriation for fiscal year 2004 and \$2,838,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for a contract with the Washington technology center. For work essential to the mission of the Washington technology center and conducted in partnership with universities, the center shall not pay any increased indirect rate nor increases in other indirect charges above the absolute amount paid during the 1995-97 fiscal biennium.

(2) \$61,000 of the general fund—state appropriation for fiscal year 2004 and \$62,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the implementation of the Puget Sound work plan and agency action item OCD-01.

(3) \$10,180,797 of the general fund—federal appropriation is provided solely for the drug control and system improvement formula grant program, to be distributed in state fiscal year 2004 as follows:

(a) \$3,551,972 to local units of government to continue multijurisdictional narcotics task forces;

(b) \$611,177 to the department to continue the drug prosecution assistance program in support of multijurisdictional narcotics task forces;

(c) \$1,343,603 to the Washington state patrol for coordination, investigative, and supervisory support to the multijurisdictional narcotics task forces and for methamphetamine education and response;

(d) \$197,154 to the department for grants to support tribal law enforcement needs;

(e) \$976,897 to the department of social and health services, division of alcohol and substance abuse, for drug courts in eastern and western Washington;

(f) \$298,246 to the department for training and technical assistance of public defenders representing clients with special needs;

(g) \$687,155 to the department to continue domestic violence legal advocacy;

(h) \$890,150 to the department of social and health services, juvenile rehabilitation administration, to continue youth violence prevention and intervention projects;

(i) \$60,000 to the department for community-based advocacy services to victims of violent crime, other than sexual assault and domestic violence;

(j) \$89,705 to the department to continue the governor's council on substance abuse;

(k) \$97,591 to the department to continue evaluation of Byrne formula grant programs;

(l) \$572,919 to the office of financial management for criminal history records improvement; and

(m) \$804,228 to the department for required grant administration, monitoring, and reporting on Byrne formula grant programs.

These amounts represent the maximum Byrne grant expenditure authority for each program. No program may expend Byrne grant funds in excess of the amounts provided in this subsection. If moneys in excess of those appropriated in this subsection become available, whether from prior or current fiscal year Byrne grant distributions, the department shall hold these moneys in reserve and may not expend them without specific appropriation. These moneys shall be carried forward and applied to the pool of moneys available for appropriation for programs and projects in the succeeding fiscal year. As part of its budget request for the succeeding year, the department shall estimate and request authority to spend any funds remaining in reserve as a result of this subsection.

(4) \$125,000 of the general fund—state appropriation for fiscal year 2004 and \$125,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for implementing the industries of the future strategy.

(5) \$200,000 of the general fund—state appropriation for fiscal year 2004 and \$200,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for a contract with the Washington manufacturing services.

(6) \$205,000 of the general fund—state appropriation for fiscal year 2004 and \$205,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for grants to Washington Columbia River Gorge counties to implement their responsibilities under the national scenic area management plan. Of this amount, \$390,000 is provided for Skamania county and \$20,000 is provided for Clark county.

(7) \$50,000 of the general fund—state appropriation for fiscal year 2004 and \$50,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for a contract with international trade alliance of Spokane.

(8) \$5,085,000 of the general fund—state appropriation for fiscal year 2004, \$5,085,000 of the general fund—state appropriation for fiscal year 2005, \$4,250,000 of the general fund—federal appropriation, and \$6,145,000 of the Washington housing trust account are provided solely for providing housing and shelter for homeless people, including but not limited to grants to operate, repair, and staff shelters; grants to operate transitional housing; partial payments for

rental assistance; consolidated emergency assistance; overnight youth shelters; and emergency shelter assistance.

(9) (~~(\$697,000)~~) \$369,000 of the community economic development account appropriation (~~(is)~~) and \$120,000 of the developmental disabilities endowment trust fund appropriation are provided solely for support of the developmental disabilities endowment governing board and costs of the endowment program. The governing board may use appropriations to implement a sliding-scale fee waiver for families earning below 150 percent of the state median family income.

(10) \$800,000 of the general fund—federal appropriation and \$6,000 of the lead paint account—state appropriation are provided solely to implement Engrossed Substitute Senate Bill No. 5586 (lead-based paint). If the bill is not enacted by June 30, 2003, the amounts provided in this subsection shall lapse.

(11) (~~(\$300,000)~~) \$125,000 of the general fund—state appropriation for fiscal year 2004 and (~~(\$300,000)~~) \$475,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the business retention and expansion program to fund contracts with locally based development organizations for local business and job retention activities. In administering new and existing funding for the business retention and expansion program, the department shall ensure the existing local programs are funded at levels that meet or exceed the funding provided in the 2001-2003 biennium.

(12) \$200,000 of the general fund—state appropriation for fiscal year 2004 and \$200,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the tourism office to market Washington state as a travel destination to northwest states, California, and British Columbia. By December 1, 2004, the department shall report to the relevant legislative policy and fiscal committees on the effectiveness of these expenditures.

(13) \$200,000 of the general fund—state appropriation for fiscal year 2004 and \$200,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for business development activities to conduct statewide and/or regional business recruitment and client lead generation services. In administering this funding, the department shall solicit recommendations from a statewide economic development organization representing associate development organizations.

(14) \$60,000 of the general fund—state appropriation for fiscal year 2004 and \$60,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the community services block grant program for pass-through to community action agencies.

(15) \$26,862,000 of the general fund—state appropriation for fiscal year 2004 and \$26,862,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for providing early childhood education assistance.

(16) Within the amounts appropriated in this section, funding is provided for Washington state dues for the Pacific northwest economic region.

(17) \$200,000 of the general fund—state appropriation for fiscal year 2004 and \$200,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the foreign offices (overseas representatives) to expand local capacity for China, expand operations in Shanghai, Beijing and Hong Kong, and in Mexico to assist Washington exporters in expanding their sales opportunities.

(18) \$600,000 of the public safety and education account appropriation is provided solely for sexual assault prevention and treatment programs.

(19) \$65,000 of the general fund—state appropriation for fiscal year 2004 and \$65,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for a contract with a food distribution program for communities in the southwestern portion of the state and for workers impacted by timber and salmon fishing closures and reductions. The department may not charge administrative overhead or expenses to the funds provided in this subsection.

(20) Repayments of outstanding loans granted under RCW 43.63A.600, the mortgage and rental assistance program, shall be remitted to the department, including any current revolving account balances. The department shall contract with a lender or contract collection agent to act as a collection agent of the state. The lender or contract collection agent shall collect payments on outstanding loans, and deposit them into an interest-bearing account. The funds collected shall be remitted to the department quarterly. Interest earned in the account may be retained by the lender or contract collection agent, and shall be considered a fee for processing payments on behalf of the state. Repayments of loans granted under this chapter shall be made to the lender or contract collection agent as long as the loan is outstanding, notwithstanding the repeal of the chapter.

(21) Within amounts provided in this section, sufficient funding is provided to implement Engrossed House Bill No. 1090 (trafficking of persons).

(22) \$10,208,818 of the general fund—federal appropriation is provided solely for the drug control and system improvement formula grant program, to be distributed in state fiscal year 2005 as follows:

(a) \$3,533,522 to local units of government to continue multijurisdictional narcotics task forces;

(b) \$608,002 to the department to continue the drug prosecution assistance program in support of multijurisdictional narcotics task forces;

(c) \$1,336,624 to the Washington state patrol for coordination, investigative, and supervisory support to the multijurisdictional narcotics task forces and for methamphetamine education and response;

(d) \$196,130 to the department for grants to support tribal law enforcement needs;

(e) \$971,823 to the department of social and health services, division of alcohol and substance abuse, for drug courts in eastern and western Washington;

(f) \$296,697 to the department for training and technical assistance of public defenders representing clients with special needs;

(g) \$683,586 to the department to continue domestic violence legal advocacy;

(h) \$885,526 to the department of social and health services, juvenile rehabilitation administration, to continue youth violence prevention and intervention projects;

(i) \$59,688 to the department for community-based advocacy services to victims of violent crime, other than sexual assault and domestic violence;

(j) \$89,239 to the department to continue the governor's council on substance abuse;

(k) \$97,084 to the department to continue evaluation of Byrne formula grant programs;

(l) \$650,846 to the office of financial management for criminal history records improvement; and

(m) \$800,051 to the department for required grant administration, monitoring, and reporting on Byrne formula grant programs.

These amounts represent the maximum Byrne grant expenditure authority for each program. No program may expend Byrne grant funds in excess of the amounts provided in this subsection. If moneys in excess of those appropriated in this subsection become available, whether from prior or current fiscal year Byrne grant distributions, the department shall hold those moneys in reserve and may not expend them without specific appropriation. These moneys shall be carried forward and applied to the pool of moneys available for appropriation for programs and projects in the succeeding fiscal year. As part of its budget request for the succeeding year, the department shall estimate and request authority to spend any funds remaining in reserve as a result of this subsection.

(23) \$100,000 of the general fund—state appropriation for fiscal year 2004 and \$400,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the purpose of grants to support the base realignment and closure process. The department shall develop and implement criteria and procedures such as the types of activities that can be funded by the grants and requirements for local matching funds for the issuance of grants to one organization within: Island county, Kitsap county, Pierce county, Snohomish county, and Spokane county. The department shall use a portion of the funding provided to support the related activities of state agencies as identified by the governor.

(24) \$163,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for pass through to community voice mail agencies as identified in this subsection, in order for these agencies to provide people in crisis and transition free and personalized voice mail services:

(a) The Opportunity Council, Bellingham, \$15,000;

(b) Skagit Community Action, Skagit county, \$12,000;

(c) The Opportunity Council, Island county, \$11,000;

(d) Volunteers of America, Snohomish county, \$10,616;

(e) Fremont Public Association, Seattle, \$27,909;

(f) Metropolitan Development Council, Tacoma, \$10,475;

(g) Community Voice Mail National, Olympia, \$18,000;

(h) Council on Homelessness, Vancouver, \$12,500;

(i) Chelan-Douglas Community Action, north central Washington, \$13,000;

(j) Benton-Franklin Community Action, south central Washington, \$17,500;

and

(k) SNAP, Spokane, \$15,000.

(25) \$634,000 of the general fund—state appropriation for fiscal year 2004, \$634,000 of the general fund—state appropriation for fiscal year 2005, and \$1,101,000 of the administrative contingency account appropriation are provided solely for contracting with associate development organizations to maintain existing programs.

(26) \$150,000 of the general fund—state appropriation for fiscal year 2005 is provided solely to the department of community, trade, and economic development for the northwest orthopaedic institute to develop additional

organizational infrastructure to assist community-based musculoskeletal health research.

(27) \$300,000 of the general fund—state appropriation for fiscal year 2005 is provided solely to the department of community, trade, and economic development for the youth assessment center in Pierce county for activities dedicated to reducing the rate of incarceration of juvenile offenders.

(28) \$99,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the retired senior volunteer program.

(29) \$2,000,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for increased civil legal services for the indigent. Of this amount, \$100,000 shall be allocated to a general farm organization with members in every county of the state to develop and administer an alternative dispute resolution system for disputes between farmers and farm workers.

(30) \$2,000,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for deposit in the homeless families services fund created in section 718 of this act.

(31) The entire homeless families services fund—state appropriation is provided solely to administer the homeless families fund and program created in section 718 of this act. It is the intent of the legislature that beginning with the 2005-07 biennium, the department choose a qualified contractor to administer the homeless families services fund program.

(32) \$421,000 of the general fund—state appropriation for fiscal year 2004 and \$193,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to coordinate the state's efforts in siting the 7E7 final assembly plant.

(33) \$60,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for a study under (a) through (i) of this subsection. Expenditure of this amount is contingent upon a \$60,000 match from a county with a population exceeding one million. The department shall conduct a study to:

(a) Detail the progress in each of the buildable land counties to date in achieving annexation or incorporation of its urban growth area since adoption of the county's county-wide planning policies to the present time by documenting:

(i) The number of acres annexed;

(ii) The number of acres incorporated;

(iii) The number of residents annexed, incorporated, and remaining in urban unincorporated areas; and

(iv) The characteristic of urban land remaining unincorporated in terms of assessed value, infrastructure deficits, service needs, land use, commercial development, and residential development;

(b) Determine the characteristics of remaining urban unincorporated areas and current statutes, and estimate when all urban unincorporated areas in each county will be annexed or incorporated, based on the rate of progress to date;

(c) Survey the counties to identify those obstacles which, in their experience, slow or prohibit annexation;

(d) Survey the cities in each of the subject counties to identify obstacles, which in their experience, slow or prohibit annexation;

(e) Survey residents of urban unincorporated areas in each of the subject counties to identify their attitudes towards annexation or incorporation;

(f) Propose possible changes to city and county taxing authority which will serve to aid the transfer of annexation of remaining urban growth areas in a timely manner;

(g) Identify and discuss the need for funding of capital improvement projects needed to provide urban levels of service;

(h) Assess the role and statutory authority of the boundary review board and how altering their role and authority might facilitate annexation; and

(i) Propose possible changes to growth management or annexation processes which will facilitate annexation.

The department shall report to the local government committees of the legislature no later than December 1, 2004.

If a county does not wish to participate in this study, the county administrative officer shall submit those intentions, in writing, to the department no later than July 1, 2004.

(34) \$150,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for deposit in the small business incubator account to implement Engrossed Substitute House Bill No. 2784 (small business incubator program). If this bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(35) \$75,000 of the general fund—state appropriation for fiscal year 2004 is provided solely to implement Substitute Senate Bill No. 6488 (agricultural lands study). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

Sec. 118. 2003 1st sp.s. c 25 s 128 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT

General Fund—State Appropriation (FY 2004)	((\$12,662,000))
	\$12,617,000
General Fund—State Appropriation (FY 2005)	((\$12,383,000))
	\$12,860,000
General Fund—Federal Appropriation	((\$23,500,000))
	\$23,924,000
Violence Reduction and Drug Enforcement	
Account—State Appropriation	\$242,000
State Auditing Services Revolving	
Account—State Appropriation	\$25,000
TOTAL APPROPRIATION	((\$48,812,000))
	\$49,668,000

The appropriations in this section are subject to the following conditions and limitations:

(1) ((~~\$127,000~~)) \$67,000 of the general fund—state appropriation for fiscal year 2004 and ((~~\$122,000~~)) \$232,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement Second Substitute Senate Bill No. 5694 (integrated permit system) and Second Substitute Senate Bill No. 6217 (regulatory improvement center). ((If the bill is not enacted by June 30, 2003, the amounts provided in this subsection shall lapse.)) If Second Substitute Senate Bill No. 6217 is not enacted by June 30, 2004, \$50,000 of the general fund—state appropriation for fiscal year 2005 shall lapse.

(2) By November 15, 2003, the office of financial management shall report to the house of representatives committees on appropriations, capital budget, and transportation and to the senate committees on ways and means and highways and transportation on the ten general priorities of government upon which the 2005-07 biennial budgets will be structured. Each priority must include a proposed set of cross agency activities with definitions and outcome measures. For historical comparisons, the 2001-03 expenditures and 2003-05 appropriations must be restated in this format and organized by priority, activity, fund source, and agency.

(3) \$40,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the office of financial management to contract for an evaluation of the costs and benefits of additional efforts aimed at encouraging K-12 employee collective bargaining units to elect coverage under public employee benefits board (PEBB) administered health care plans. This evaluation will include, but is not limited to, the following: A review of current processes for the procurement of health benefit coverage by K-12 employees; an assessment of the costs and benefits for the state, local school districts, and K-12 employees of moving to PEBB administered health care plans; and options for creating incentives for K-12 employee collective bargaining units moving to PEBB administered plans. The office of financial management shall report regarding the results of this study to the governor and the fiscal committees of the legislature by December 1, 2004.

(4)(a) \$75,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for a task force on noneconomic damages. On or before October 31, 2005, the task force shall prepare a study and develop, for consideration by the legislature, a proposed plan for implementation of an advisory schedule of noneconomic damages in actions for injuries resulting from health care under chapter 7.70 RCW. Implementation of any proposed plan is contingent upon statutory authorization by the legislature.

(b) The task force shall develop a proposed plan for use of an advisory schedule of noneconomic damages as defined in RCW 4.56.250 that will increase the predictability and proportionality of settlements and awards for noneconomic damages in actions for injuries resulting from health care. The task force shall consider:

(i) The information that can most appropriately be used to provide guidance to the trier of fact regarding noneconomic damage awards, giving consideration to past noneconomic damage awards for similar injuries, considering severity and duration of the injuries, and other factors deemed appropriate by the task force; past noneconomic damage awards for similar claims for damages; and such other information the task force finds appropriate;

(ii) The most appropriate format in which to present the information to the trier of fact; and

(iii) When and under what circumstances an advisory schedule should be utilized in alternative dispute resolution settings and presented to the trier of fact at trial.

(c) A proposed implementation plan shall include, at a minimum:

(i) The information developed under subsection (b) of this section;

(ii) Identification of statutory, regulatory, or court rule changes necessary to implement the advisory schedule, as well as forms or other documents necessary to implement the schedule; and

(iii) Identification of the time required to implement an advisory schedule authorized by the legislature.

(d) The task force is composed of fourteen members, as follows: (i) One member from each of the two largest caucuses in the senate, to be appointed by the president of the senate, and one member from each of the two largest caucuses in the house of representatives, to be appointed by the speaker of the house of representatives; (ii) one health care ethicist; (iii) one economist; (iv) one actuary; (v) two attorneys with expertise or significant experience in medical malpractice actions, one representing the plaintiff's bar and one representing the insurance defense bar; (vi) two superior court judges; (vii) one representative of a hospital; (viii) one physician; (ix) one representative of a medical malpractice insurer; and (x) two consumers. The governor shall appoint the nonlegislative members of the task force and select a chair.

(e) Legislative members of the task force shall be reimbursed for travel expenses under RCW 44.04.120. Nonlegislative members of the task force shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(f) The office of financial management shall provide support to the task force with the assistance of staff from the administrative office of the courts, the house of representatives office of program research, and senate committee services.

(5) \$252,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the office to study land use and local government finance and make recommendations on the impact that current trends in city and county revenue sources and expenditures may have on land use decisions made by counties and cities and meeting goals of the growth management act. Among the areas to be studied: Local government revenue sources and expenditures over the past decade; the relationship between local government finances and land use decisions including commercial, residential, and industrial development; cooperation or competition of adjoining jurisdictions over land use and annexation; the relationship new development has to existing commercial and residential areas and its effect on a community's infrastructure and quality of life. The study shall include recommendations for state and local government fiscal partnerships that encourage cooperation among jurisdictions to meet the goals of the growth management act, and how the state and local government fiscal structure can better meet the responsibilities of providing services to citizens and meeting the goals of the growth management act.

Sec. 119. 2003 1st sp.s. c 25 s 129 (uncodified) is amended to read as follows:

FOR THE OFFICE OF ADMINISTRATIVE HEARINGS

Administrative Hearings Revolving Account—State

Appropriation.....((\$24,619,000))
\$26,983,000

Sec. 120. 2003 1st sp.s. c 25 s 130 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF PERSONNEL

Department of Personnel Service Account—State	
Appropriation	\$16,247,000
Higher Education Personnel Services Account—State	
Appropriation	\$1,612,000
TOTAL APPROPRIATION	\$17,859,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The department is authorized to enter into a financing contract for up to ~~(((\$32,095,000))~~ \$38,911,000, plus necessary financing expenses and required reserves, pursuant to chapter 39.94 RCW. The contract shall be to purchase, develop, and implement a new statewide payroll system and shall be for a term of not more than twelve years. The legislature recognizes the critical nature of the human resource management system and its relationship to successful implementation of civil service reform, collective bargaining, and the ability to permit contracting out of services to the private sector. Projects of this size and complexity have many risks associated with their successful and timely completion, therefore, to help ensure project success, the department of personnel and the office of financial management shall jointly report to the legislature by January 15, 2004, on progress toward implementing the human resource management system. The report shall include a description of mitigation strategies employed to address the risks related to: Business requirements not fully defined at the project outset; short time frame for system implementation; and delays experienced by other states. The report shall assess the probability of meeting the system implementation schedule and recommend contingency strategies as needed. The report shall establish the timelines, the critical path, and the dependencies for realizing each of the benefits articulated in the system feasibility study.

(2) The department shall coordinate with the governor's office of Indian affairs on providing one-day government to government training sessions for federal, state, local, and tribal government employees. The training sessions must cover tribal historical perspectives, legal issues, tribal sovereignty, and tribal governments. Costs of the training sessions shall be recouped through a fee charged to the participants of each session.

Sec. 121. 2003 1st sp.s. c 25 s 137 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF REVENUE

General Fund—State Appropriation (FY 2004)	\$82,644,000
General Fund—State Appropriation (FY 2005)	(((\$81,916,000))
	<u>\$82,036,000</u>
Timber Tax Distribution Account—State	
Appropriation	(((\$5,191,000))
	<u>\$5,327,000</u>
Waste Education/Recycling/Litter Control—State	
Appropriation	\$101,000
State Toxics Control Account—State	
Appropriation	\$67,000
Oil Spill Administration Account—State	
Appropriation	\$14,000

TOTAL APPROPRIATION ((~~\$169,933,000~~))
 \$170,189,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$120,000 of the general fund—state appropriation for fiscal year 2005 is provided solely to implement Senate Bill No. 5034 (senior citizen property tax exemption). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(2) \$136,000 of the timber tax distribution account appropriation is provided solely to implement Engrossed Substitute House Bill No. 2693 (taxation of timber). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

Sec. 122. 2003 1st sp.s. c 25 s 138 (uncodified) is amended to read as follows:

FOR THE BOARD OF TAX APPEALS

General Fund—State Appropriation (FY 2004) ((~~\$1,141,000~~))
 \$1,186,000
 General Fund—State Appropriation (FY 2005) ((~~\$988,000~~))
 \$1,033,000
 TOTAL APPROPRIATION ((~~\$2,129,000~~))
 \$2,219,000

Sec. 123. 2003 1st sp.s. c 25 s 140 (uncodified) is amended to read as follows:

FOR THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

OMWBE Enterprises Account—State
 Appropriation \$1,990,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The office's revolving fund charges to state agencies may not exceed ((~~\$1,282,000~~)) \$1,534,000.

(2) During the 2003-05 biennium, the office may receive gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the office and spend gifts, grants, or endowments or income from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17.710.

(3) During ((~~fiscal year 2004~~)) the 2003-05 biennium, the office may raise fees in excess of the fiscal growth factor.

Sec. 124. 2003 1st sp.s. c 25 s 141 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

General Fund—State Appropriation (FY 2004) ((~~\$193,000~~))
 \$235,000
 General Fund—State Appropriation (FY 2005) ((~~\$275,000~~))
 \$233,000

General Fund—Federal Appropriation	((<u>\$3,215,000</u>))
	<u>\$3,865,000</u>
General Administration Services Account—State Appropriation	((<u>\$38,086,000</u>))
	<u>\$38,856,000</u>
TOTAL APPROPRIATION	((<u>\$41,769,000</u>))
	<u>\$43,189,000</u>

Sec. 125. 2003 1st sp.s. c 25 s 135 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—OPERATIONS

Dependent Care Administrative Account—State Appropriation	\$384,000
Department of Retirement Systems Expense Account— State Appropriation	((<u>\$44,485,000</u>))
	<u>\$45,216,000</u>
TOTAL APPROPRIATION	((<u>\$44,869,000</u>))
	<u>\$45,600,000</u>

The appropriations in this section are subject to the following conditions and limitations:

- (1) \$31,000 of the retirement systems expense account appropriation is provided solely to implement House Bill No. 1519, chapter 155, Laws of 2003 (unreduced duty death survivor benefits).
- (2) \$1,678,000 of the retirement systems expense account appropriation is provided solely to implement House Bill No. 2197, chapter 92, Laws of 2003 (law enforcement officers' and fire fighters' plan 2 board implementation).
- (3) \$2,083,000 of the retirement systems expense account appropriation is provided solely for the support of the information systems project known as the electronic document image management system.
- (4) \$124,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Senate Bill No. 5094, chapter 157, Laws of 2003 (substitute employees' retirement credit).
- (5) \$77,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Senate Bill No. 5100, chapter 32, Laws of 2003 (fallen hero survivor benefits).
- (6) \$21,000 of the department of retirement systems expense account—state appropriation is provided solely to implement House Bill No. 1206, chapter 156, Laws of 2003 (plan 3 contributions).
- (7) \$30,000 of the department of retirement systems expense account—state appropriation is provided solely to implement House Bill No. 1207, chapter 402, Laws of 2003 (employee death benefits).
- (8) \$324,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Substitute House Bill No. 1829, chapter 412, Laws of 2003 (retire-rehire reform).
- (9) \$125,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Substitute House Bill No. 1202, chapter 293, Laws of 2003 (emergency medical technicians' retirement).

(10) \$188,000 of the department of retirement systems expense account—state appropriation is provided solely to implement House Bill No. 2418 (minimum disability benefits). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(11) \$7,000 of the department of retirement systems expense account—state appropriation is provided solely to implement House Bill No. 2419 (unreduced line-duty death benefits). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(12) \$5,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Senate Bill No. 6254 (state patrol line-duty death benefits). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(13) \$128,000 of the department of retirement systems expense account—state appropriation is provided solely to implement House Bill No. 2538 (\$1,000 minimum benefit). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(14) \$403,000 of the department of retirement systems expense account—state appropriation is provided solely to implement House Bill No. 2537 (public safety employees' retirement system). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

Sec. 126. 2003 1st sp.s. c 25 s 142 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF INFORMATION SERVICES

General Fund—State Appropriation (FY 2004)	\$1,000,000
General Fund—State Appropriation (FY 2005)	(\$1,000,000)
	<u>\$1,650,000</u>
Data Processing Revolving Account—State Appropriation	\$3,569,000
TOTAL APPROPRIATION	(\$5,569,000)
	<u>\$6,219,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$1,000,000 of the general fund—state appropriation for fiscal year 2004 and ~~(\$1,000,000)~~ \$1,650,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the digital learning commons to create a demonstration project, in collaboration with schools, which will provide a web-based portal where students, parents, and teachers from around the state will have access to digital curriculum resources, learning tools, and online classes. The intent is to establish a clearinghouse of high quality online courses and curriculum materials that are aligned with the state's essential learning requirements. The clearinghouse shall be designed for ease of use and shall pool the purchasing power of the state so that these resources and courses are affordable and accessible to schools, teachers, students, and parents. These appropriations are subject to the following conditions and limitations:

(1) The funding provided in this section shall be expended primarily for acquiring online courses and curriculum materials that are aligned with the state "essential learning requirements" and that meet standards of quality. No more than ten percent of the funds provided in this subsection shall be used for administrative expenses of the digital learning commons.

(2) To the maximum extent possible, funds shall be used on demonstration projects that utilize online course materials and curricula that are already available. The commons may also consider utilizing existing products in establishing the entire digital learning commons.

(3) By September 1, 2003, the digital learning commons shall begin offering access to and reimbursement for online courses and services.

(4) In consultation with the department of information services, the office of financial management shall monitor compliance with these conditions and limitations. By February 1, 2004, the digital learning commons shall submit a report to the governor and the appropriate legislative committees detailing the types of courses and services offered and the number of students served through the digital learning commons.

Sec. 127. 2003 1st sp.s. c 25 s 143 (uncodified) is amended to read as follows:

FOR THE INSURANCE COMMISSIONER

General Fund—Federal Appropriation	\$631,000
Insurance Commissioners Regulatory Account—State	
Appropriation	(\$32,307,000)
	\$33,209,000
TOTAL APPROPRIATION	(\$32,938,000)
	\$33,840,000

The appropriations in this section are subject to the following conditions and limitations: \$200,000 of the insurance commissioner's regulatory account—state appropriation is provided solely to assess conditions in liability insurance markets in Washington. The commissioner will develop and provide information to Washington businesses, insurance agents, and brokers to assist such businesses in obtaining liability insurance coverage. The commissioner will also assist such businesses in determining which Washington agents and brokers have access to authorized and surplus lines insurers writing such liability coverages. The commissioner shall provide this information in a manner that does not discriminate or favor any agent, broker, or insurer writing business directly. Nothing in this section shall impair the authority of the commissioner to activate a market assistance plan under RCW 48.22.050.

Sec. 128. 2003 1st sp.s. c 25 s 146 (uncodified) is amended to read as follows:

FOR THE HORSE RACING COMMISSION

Horse Racing Commission Account—State	
Appropriation	\$4,609,000

The appropriation in this section is subject to the following conditions and limitations: During fiscal year 2005, the commission may increase license fees in excess of the fiscal growth factor as provided in RCW 43.135.055.

Sec. 129. 2003 1st sp.s. c 25 s 147 (uncodified) is amended to read as follows:

FOR THE LIQUOR CONTROL BOARD

General Fund—State Appropriation (FY 2004)	\$1,454,000
General Fund—State Appropriation (FY 2005)	\$1,455,000

Liquor Control Board Construction and Maintenance	
Account—State Appropriation	\$5,717,000
Liquor Revolving Account—State	
Appropriation	(\$133,842,000)
	<u>\$135,303,000</u>
TOTAL APPROPRIATION	(\$142,468,000)
	<u>\$143,929,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,000,000 of the liquor revolving account appropriation is provided solely for the costs associated with ~~((the completion of))~~ the merchandising business system, with priority placed on the point-of-sale component of the system. Actual expenditures are limited to the balance of funds remaining from the \$4,803,000 appropriation provided for the merchandise business system in the 2001-03 budget.

(2) \$1,309,000 of the liquor revolving account appropriation is provided solely for the costs associated with ~~((purchasing merchandise business system software and hardware-related items, and hiring system-related staff))~~ the merchandising business system solution, with priority placed on the point-of-sale component of the system. These costs include hiring system-related staff and procuring system-related hardware and software.

(3) As required under RCW 66.16.010, the liquor control board shall add an equivalent surcharge of \$0.42 per liter on all retail sales of spirits, excluding licensee, military and tribal sales, effective no later than September 1, 2003. The intent of this surcharge is to raise \$14,000,000 in additional revenue for the 2003-05 biennium. To the extent that a lesser surcharge is sufficient to raise \$14,000,000, the board may reduce the amount of the surcharge. The board shall remove the surcharge once it generates \$14,000,000, but no later than June 30, 2005.

(4) During the 2003-2005 fiscal biennium, the board may increase the fee for the certificate of approval in excess of the fiscal growth factor under RCW 43.135.055 if the increase is necessary to fully fund the costs of administering the certificate of approval program under Substitute Senate Bill No. 6655, as amended. If the bill is not enacted by June 30, 2004, this subsection is null and void.

(5) \$385,000 of the liquor revolving account—state appropriation is provided solely to implement Engrossed Substitute Senate Bill No. 6655 (beer/wine manufacturers). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

Sec. 130. 2003 1st sp.s. c 25 s 148 (uncodified) is amended to read as follows:

FOR THE UTILITIES AND TRANSPORTATION COMMISSION

Public Service Revolving Account—State	
Appropriation	(\$25,872,000)
	<u>\$26,458,000</u>
Pipeline Safety Account—State	
Appropriation	\$2,768,000
Pipeline Safety Account—Federal	

Appropriation	\$1,041,000
TOTAL APPROPRIATION	(\$29,681,000)
	<u>\$30,267,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The commission shall report back to the appropriate policy committees of the legislature by July 1st of 2003 and 2004 a list of authorized out-of-state travel for the preceding calendar year.

~~((3))~~ (2) \$135,000 of the public services revolving account appropriation and \$15,000 of the pipeline safety account—state appropriation are provided solely for the implementation of the commission's financial systems project. If final approval for the project is not granted by the office of financial management, the amounts provided in this subsection shall lapse.

~~((4) \$200,000 of the public services revolving account appropriation is provided solely for an interagency transfer to the joint legislative audit and review committee for the implementation of Substitute House Bill No. 1013 (UTC performance audit). If the bill is not enacted by June 30, 2003, the amount provided in this subsection shall lapse.)~~

Sec. 131. 2003 1st sp.s. c 25 s 150 (uncodified) is amended to read as follows:

FOR THE MILITARY DEPARTMENT

General Fund—State Appropriation (FY 2004)	(\$8,486,000)
	<u>\$8,578,000</u>
General Fund—State Appropriation (FY 2005)	(\$8,223,000)
	<u>\$8,466,000</u>
General Fund—Federal Appropriation	(\$72,094,000)
	<u>\$143,243,000</u>
General Fund—Private/Local Appropriation	\$371,000
Enhanced 911 Account—State Appropriation	\$33,955,000
Disaster Response Account—State Appropriation	(\$190,000)
	<u>\$3,387,000</u>
<u>Disaster Response Account—Federal Appropriation</u>	<u>\$7,857,000</u>
Worker and Community Right to Know Fund—State	
Appropriation	\$290,000
Nisqually Earthquake Account—State	
Appropriation	(\$13,128,000)
	<u>\$17,869,000</u>
Nisqually Earthquake Account—Federal	
Appropriation	(\$48,725,000)
	<u>\$62,103,000</u>
TOTAL APPROPRIATION	(\$185,462,000)
	<u>\$286,119,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$190,000 of the disaster response account—state appropriation is provided solely to develop and implement a disaster grant management system. The military department shall also submit a report quarterly to the office of

financial management and the legislative fiscal committees detailing information on the disaster response account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2003-05 biennium based on current revenue and expenditure patterns.

(2) (~~(\$10,128,000)~~) \$14,869,000 of the Nisqually earthquake account—state appropriation and (~~(\$48,725,000)~~) \$62,103,000 of the Nisqually earthquake account—federal appropriation are provided solely for response and recovery costs associated with the February 28, 2001, earthquake. The military department shall submit a report quarterly to the office of financial management and the legislative fiscal committees detailing earthquake recovery costs, including: (a) Estimates of total costs; (b) incremental changes from the previous estimate; (c) actual expenditures; (d) estimates of total remaining costs to be paid; and (e) estimates of future payments by biennium. This information shall be displayed by fund, by type of assistance, and by amount paid on behalf of state agencies or local organizations. The military department shall also submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on the Nisqually earthquake account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2003-05 biennium based on current revenue and expenditure patterns.

(3) \$3,000,000 of the Nisqually earthquake account—state appropriation is provided solely to cover other response and recovery costs associated with the Nisqually earthquake that are not eligible for federal emergency management agency reimbursement. Prior to expending funds provided in this subsection, the military department shall obtain prior approval of the director of financial management. Prior to approving any single project of over \$1,000,000, the office of financial management shall notify the fiscal committees of the legislature. The military department is to submit a quarterly report detailing the costs authorized under this subsection to the office of financial management and the legislative fiscal committees.

(4) \$200,000 of the general fund—state appropriation for fiscal year 2004, \$200,000 of the general fund—state appropriation for fiscal year 2005, and (~~(\$43,555,000)~~) \$105,952,000 of the general fund—federal appropriation are provided solely for homeland security, to be distributed as follows:

(a) \$9,469,000 of the general fund—federal appropriation to units of local government for homeland security purposes. Any communications equipment purchased shall be consistent with standards set by the Washington state interoperability executive committee;

(b) \$200,000 of the general fund—state appropriation for fiscal year 2004, \$200,000 of the general fund—state appropriation for fiscal year 2005, and (~~(\$200,000)~~) \$2,713,000 of the general fund—federal appropriation to the department to conduct the terrorism consequence management program;

(c) \$100,000 of the general fund—federal appropriation to the department to conduct a critical infrastructure assessment;

(d) (~~(\$500,000)~~) \$674,000 of the general fund—federal appropriation to the office of financial management for the citizen corps and the community emergency response teams;

(e) \$1,384,000 of the general fund—federal appropriation to the department to provide homeland security exercise and training opportunities to state and local governments, and to develop, monitor, coordinate, and manage statewide homeland security programs, including required grant administration, monitoring, and reporting;

(f) ~~(\$29,917,000)~~ \$89,677,000 of the general fund—federal appropriation for other anticipated homeland security needs. This amount shall not be allotted until a spending plan is approved by the governor's domestic security advisory group and the office of financial management;

(g) The remaining general fund—federal appropriation may be expended according to federal requirements;

(h) Federal moneys shall be carried forward and applied to the pool of moneys available for appropriation for programs and projects in the succeeding fiscal year. Funding is contingent upon receipt of federal awards. As part of its budget request in each year, the department shall estimate and request authority to spend any federal funds remaining available as a result of this subsection;

(i) The department shall submit a quarterly report to the office of financial management and the legislative fiscal committees detailing the governor's domestic security advisory group recommendations; homeland security revenues and expenditures, including estimates of total federal funding for Washington state; incremental changes from the previous estimate, planned and actual homeland security expenditures by the state and local governments with this federal funding; and matching or accompanying state or local expenditures.

Sec. 132. 2003 1st sp.s. c 25 s 151 (uncodified) is amended to read as follows:

FOR THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

General Fund—State Appropriation (FY 2004)	\$2,362,000
General Fund—State Appropriation (FY 2005)	(\$2,436,000)
	<u>\$2,437,000</u>
Department of Personnel Service Account—State	
Appropriation	\$2,542,000
TOTAL APPROPRIATION	(\$7,340,000)
	<u>\$7,341,000</u>

The appropriations in this section are subject to the following conditions and limitations: ~~(\$40,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the implementation of Second Substitute Senate Bill No. 5012 (charter schools). If the bill is not enacted by June 30, 2003, the amount provided in this subsection shall lapse.)~~ \$41,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the implementation of Second Substitute House Bill No. 2295 or Second Engrossed Substitute Senate Bill No. 5012 (charter schools). If neither bill is enacted by June 30, 2004, the amount provided in this subsection shall lapse.

**PART II
HUMAN SERVICES**

Sec. 201. 2003 1st sp.s. c 25 s 201 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES.

(1) Appropriations made in this act to the department of social and health services shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act except as expressly provided in this act, nor shall allotment modifications permit moneys that are provided solely for a specified purpose to be used for other than that purpose.

(2) The department of social and health services shall not initiate any services that require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation providing appropriation authority, and an equal amount of appropriated state general fund moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(3)(a) The appropriations to the department of social and health services in this act shall be expended for the programs and in the amounts specified in this act. However, after May 1, 2004, unless specifically prohibited by this act, the department may transfer general fund—state appropriations for fiscal year 2004 among programs after approval by the director of financial management. However, the department shall not transfer state moneys that are provided solely for a specified purpose except as expressly provided in subsection (3)(b) of this section.

(b) To the extent that transfers under subsection (3)(a) of this section are insufficient to fund actual expenditures in excess of fiscal year 2004 caseload forecasts and utilization assumptions in the medical assistance long-term care foster care, adoption support, and child support programs, the department may transfer state moneys that are provided solely for a specified purpose after approval by the director of financial management.

(c) The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing prior to approving any allotment modifications or transfers under this subsection.

(4) ~~((The department))~~ After consultation and coordination with local elected officials and community groups to assure there will be no degradation in existing services as a result of implementing the Washington medicaid integration project, the department shall report its progress to the appropriate committees of the legislature during the 2004 September committee assembly days and is authorized to develop an integrated health care program designed to slow the progression of illness and disability and better manage Medicaid expenditures for the aged and disabled population. Under this Washington medicaid integration partnership (WMIP) the department may combine and transfer such Medicaid funds appropriated under sections 204, 206, 208, and 209 of this act as may be necessary to finance a unified health care plan for the

WMIP program enrollment. The WMIP pilot projects shall not exceed a daily enrollment of 6,000 persons during the 2003-05 biennium. The amount of funding assigned to the pilot projects from each program may not exceed the average per capita cost assumed in this act for individuals covered by that program, actuarially adjusted for the health condition of persons enrolled in the pilot, times the number of clients enrolled in the pilot. In implementing the WMIP pilot projects, the department may: (a) Withhold from calculations of "available resources" as set forth in RCW 71.24.025 a sum equal to the capitated rate for individuals enrolled in the pilots; and (b) employ capitation financing and risk-sharing arrangements in collaboration with health care service contractors licensed by the office of the insurance commissioner and qualified to participate in both the medicaid and medicare programs. The department shall conduct an evaluation of the WMIP, measuring changes in participant health outcomes, changes in patterns of service utilization, participant satisfaction, participant access to services, and the state fiscal impact.

Sec. 202. 2003 1st sp.s. c 25 s 202 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
CHILDREN AND FAMILY SERVICES PROGRAM**

General Fund—State Appropriation (FY 2004)	(((\$231,566,000))
	<u>\$219,291,000</u>
General Fund—State Appropriation (FY 2005)	(((\$232,468,000))
	<u>\$229,924,000</u>
General Fund—Federal Appropriation	(((\$416,043,000))
	<u>\$422,870,000</u>
General Fund—Private/Local Appropriation	\$400,000
Public Safety and Education Account—	
State Appropriation	(((\$23,920,000))
	<u>\$21,488,000</u>
Violence Reduction and Drug Enforcement Account—	
State Appropriation	(((\$5,640,000))
	<u>\$1,488,000</u>
TOTAL APPROPRIATION	(((\$910,037,000))
	<u>\$895,461,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,271,000 of the fiscal year 2004 general fund—state appropriation, \$2,271,000 of the fiscal year 2005 general fund—state appropriation, and \$1,584,000 of the general fund—federal appropriation are provided solely for the category of services titled "intensive family preservation services."

(2) \$701,000 of the general fund—state fiscal year 2004 appropriation and \$701,000 of the general fund—state fiscal year 2005 appropriation are provided to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to thirteen children through two years of age. Seventy-five percent of the children served by the facility must be in need of special care as a result of substance abuse by their mothers. The facility shall also provide on-site training to biological, adoptive, or foster parents. The facility shall provide at least three months of consultation and support to parents

accepting placement of children from the facility. The facility may recruit new and current foster and adoptive parents for infants served by the facility. The department shall not require case management as a condition of the contract.

(3) \$375,000 of the general fund—state fiscal year 2004 appropriation, \$375,000 of the general fund—state fiscal year 2005 appropriation, and \$322,000 of the general fund—federal appropriation are provided for up to three nonfacility-based programs for the training, consultation, support, and recruitment of biological, foster, and adoptive parents of children through age three in need of special care as a result of substance abuse by their mothers, except that each program may serve up to three medically fragile nonsubstance-abuse-affected children. In selecting nonfacility-based programs, preference shall be given to programs whose federal or private funding sources have expired or that have successfully performed under the existing pediatric interim care program.

(4) The providers for the 31 HOPE beds shall be paid a \$1,000 base payment per bed per month, and reimbursed for the remainder of the bed cost only when the beds are occupied.

(5) \$125,000 of the general fund—state appropriation for fiscal year 2004 and \$125,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for a foster parent retention program. This program is directed at foster parents caring for children who act out sexually.

(6) Within funding provided for the foster care and adoption support programs, the department shall control reimbursement decisions for foster care and adoption support cases such that the aggregate average cost per case for foster care and for adoption support does not exceed the amounts assumed in the projected caseload expenditures. The department shall adjust adoption support benefits to account for the availability of the new federal adoption support tax credit for special needs children.

(7) \$50,000 of the fiscal year 2004 general fund—state appropriation and \$50,000 of the fiscal year 2005 general fund—state appropriation are provided solely for a street youth program in Spokane.

(8) \$2,000,000 of the general fund—state appropriation for fiscal year 2005 is provided solely to increase shelter and other services for victims of domestic violence, including \$65,000 for domestic violence shelter operating costs in Shelton.

(9) \$1,773,000 of the general fund—state appropriation for fiscal year 2005 and \$531,000 of the general fund—federal appropriation are provided solely to implement Engrossed Substitute Senate Bill No. 6642 (case conferences), CAMIS user interface improvements, and family team decision meetings, as part of the department's program improvement plan implementation.

(10) The department shall convene regional and local department staff and community-based agency staff to develop recommended policies and protocols concerning collaborative decision making, including contracting, referrals, and resource allocation. The department shall submit these recommendations to the governor and the appropriate committees of the legislature by December 1, 2004.

*Sec. 203. 2003 1st sp.s. c 25 s 203 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
JUVENILE REHABILITATION PROGRAM**

General Fund—State Appropriation (FY 2004)	(\$74,095,000)
	<u>\$72,362,000</u>
<i>General Fund—State Appropriation (FY 2005)</i>	<i>(\$72,697,000)</i>
	<u>\$70,565,000</u>
General Fund—Federal Appropriation	(\$12,062,000)
	<u>\$6,260,000</u>
General Fund—Private/Local Appropriation	\$1,098,000
Juvenile Accountability Incentive	
Account—Federal Appropriation	(\$9,139,000)
	<u>\$7,300,000</u>
Violence Reduction and Drug Enforcement Account—	
State Appropriation	(\$37,338,000)
	<u>\$37,699,000</u>
TOTAL APPROPRIATION	(\$206,429,000)
	<u>\$195,284,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$695,000 of the violence reduction and drug enforcement account appropriation is provided solely for deposit in the county criminal justice assistance account for costs to the criminal justice system associated with the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county adult court costs associated with the implementation of chapter 338, Laws of 1997 and shall be distributed in accordance with RCW 82.14.310.

(2) \$6,065,000 of the violence reduction and drug enforcement account appropriation is provided solely for the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county impacts associated with the implementation of chapter 338, Laws of 1997 and shall be distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula.

(3) \$1,204,000 of the general fund—state appropriation for fiscal year 2004, \$1,204,000 of the general fund—state appropriation for fiscal year 2005, and \$5,262,000 of the violence reduction and drug enforcement account appropriation are provided solely to implement community juvenile accountability grants pursuant to chapter 338, Laws of 1997 (juvenile code revisions). Funds provided in this subsection may be used solely for community juvenile accountability grants, administration of the grants, and evaluations of programs funded by the grants.

(4) \$2,544,000 of the violence reduction and drug enforcement account appropriation is provided solely to implement alcohol and substance abuse treatment programs for locally committed offenders. The juvenile rehabilitation administration shall award these moneys on a competitive basis to counties that submitted a plan for the provision of services approved by the division of alcohol and substance abuse. The juvenile rehabilitation administration shall develop criteria for evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation.

~~(5) (\$100,000 of the general fund—state appropriation for fiscal year 2004 and \$100,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for a contract for expanded services of the teamchild project.~~

~~(6))~~ (6)) \$16,000 of the general fund—state appropriation for fiscal year 2004 and \$16,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the implementation of chapter 167, Laws of 1999 (firearms on school property). The amounts provided in this subsection are intended to provide funding for county impacts associated with the implementation of chapter 167, Laws of 1999, and shall be distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula.

~~((8))~~ (6) \$16,000 of the violence reduction and drug enforcement account appropriation is provided solely for the evaluation of the juvenile offender co-occurring disorder pilot program ~~((implemented pursuant to subsection (7) of this section)).~~

~~((9) \$900,000 of the general fund—state appropriation for fiscal year 2004 and \$900,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the continued implementation of the juvenile violence prevention grant program established in section 204, chapter 309, Laws of 1999.~~

~~(H))~~ (7) For the purposes of a pilot project recommended by the family policy council, the juvenile rehabilitation administration shall provide a block grant, rather than categorical funding, for consolidated juvenile services, community juvenile accountability act grants, the chemically dependent disposition alternative, and the special sex offender disposition alternative to the Pierce county juvenile court. To evaluate the effect of decategorizing funding for youth services, the juvenile court shall do the following:

(a) Develop intermediate client outcomes according to the risk assessment tool (RAT) currently used by juvenile courts and in coordination with the juvenile rehabilitation administration and the family policy council;

(b) Track the number of youth participating in each type of service, intermediate outcomes, and the incidence of recidivism within twenty-four months of completion of services;

(c) Track similar data as in (b) of this subsection with an appropriate control group, selected in coordination with the juvenile rehabilitation administration and the family policy council;

(d) Document the process for managing block grant funds on a quarterly basis, and provide this report to the juvenile rehabilitation administration and the family policy council; and

(e) Provide an initial process evaluation to the juvenile rehabilitation administration and the family policy council by January 30, 2004, and an intermediate evaluation by December 31, 2004. The court shall develop this evaluation in consultation with the juvenile rehabilitation administration, the family policy council, and the Washington state institute for public policy.

~~((13) \$308,000)~~ (8) \$158,000 of the general fund—state appropriation for fiscal year 2004 and ~~((875,000))~~ \$580,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to reimburse counties for local juvenile disposition alternatives implemented pursuant to Senate Bill No. 5903 (juvenile offender sentencing). The juvenile rehabilitation administration, in consultation with the juvenile court administrators, shall develop an equitable distribution formula for the funding provided in this subsection. The juvenile

rehabilitation administration may adjust this funding level in the event that utilization rates of the disposition alternatives are lower than the level anticipated by the total appropriations to the juvenile rehabilitation administration in this section. If the bill is not enacted by June 30, 2003, the amounts provided in this subsection shall lapse.

((14)) (9) \$1,416,000 of the general fund—state appropriation for fiscal year 2004 and \$1,417,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for additional research-based services to the juvenile parole population, including quality control efforts to ensure appropriate implementation of research-based services. The juvenile rehabilitation administration shall consult with the Washington state institute for public policy in deciding which interventions to provide to the parole population and appropriate levels of quality control. Of the total general fund—state appropriation for fiscal year 2004, up to \$55,000 may be used for additional suicide precaution training for staff.

*Sec. 203 was partially vetoed. See message at end of chapter.

*Sec. 204. 2003 1st sp.s. c 25 s 204 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
MENTAL HEALTH PROGRAM**

(I) COMMUNITY SERVICES/REGIONAL SUPPORT NETWORKS

General Fund—State Appropriation (FY 2004)	((\$209,818,000))
	<u>\$200,251,000</u>
General Fund—State Appropriation (FY 2005)	((\$211,317,000))
	<u>\$214,010,000</u>
General Fund—Federal Appropriation	((\$384,801,000))
	<u>\$405,549,000</u>
General Fund—Local Appropriation	\$1,970,000
TOTAL APPROPRIATION	((\$807,906,000))
	<u>\$821,780,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Regional support networks shall use portions of the general fund—state appropriation for implementation of working agreements with the vocational rehabilitation program that will maximize the use of federal funding for vocational programs.

(b) From the general fund—state appropriations in this subsection, the secretary of social and health services shall assure that regional support networks reimburse the aging and disability services administration for the general fund—state cost of medicaid personal care services that enrolled regional support network consumers use because of their psychiatric disability.

(c) \$4,222,000 of the general fund—state appropriation for fiscal year 2004, \$4,222,000 of the general fund—state appropriation for fiscal year 2005, and \$8,444,000 of the general fund—federal appropriation are provided solely for the continued operation of community residential and support services for persons whose treatment needs constitute substantial barriers to community placement and who no longer require active psychiatric treatment at an inpatient hospital level of care, no longer meet the criteria for inpatient involuntary

commitment, and have been discharged from a state psychiatric hospital. Primary responsibility and accountability for provision of appropriate community support for persons placed with these funds shall reside with the mental health program and the regional support networks, with partnership and active support from the alcohol and substance abuse division and from the aging and disability services administration. The department shall continue performance-based incentive contracts to provide appropriate community support services for individuals leaving the state hospitals under this subsection. The department shall first seek to contract with regional support networks before offering a contract to any other party. The funds appropriated in this subsection shall not be considered "available resources" as defined in RCW 71.24.025 and are not subject to the standard allocation formula applied in accordance with RCW 71.24.035(13)(a).

(d) At least \$902,000 of the federal block grant funding appropriated in this subsection shall be used for the continued operation of the mentally ill offender pilot program.

~~((f))~~ (e) Within funds appropriated in this subsection, the department shall contract with the Clark county regional support network for development and operation of a project demonstrating collaborative methods for providing intensive mental health services in the school setting for severely emotionally disturbed children who are medicaid eligible. Project services are to be delivered by teachers and teaching assistants who qualify as, or who are under the supervision of, mental health professionals meeting the requirements of chapter 275-57 WAC. The department shall increase medicaid payments to the regional support network by the amount necessary to cover the necessary and allowable costs of the demonstration, not to exceed the upper payment limit specified for the regional support network in the department's medicaid waiver agreement with the federal government after meeting all other medicaid spending requirements assumed in this subsection. The regional support network shall provide the department with (i) periodic reports on project service levels, methods, and outcomes; and (ii) an intergovernmental transfer equal to the state share of the increased medicaid payment provided for operation of this project.

~~((g))~~ (f) The department shall assure that each regional support network increases spending on direct client services in fiscal years 2004 and 2005 by at least the same percentage as the total state, federal, and local funds allocated to the regional support network in those years exceed the amounts allocated to it in fiscal year 2003.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2004)	((94,196,000))
	<u>\$86,607,000</u>
General Fund—State Appropriation (FY 2005)	((92,964,000))
	<u>\$87,592,000</u>
General Fund—Federal Appropriation	((134,755,000))
	<u>\$146,945,000</u>
General Fund—Private/Local Appropriation	((26,342,000))
	<u>\$29,063,000</u>
TOTAL APPROPRIATION	((348,257,000))

\$350,207,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The state mental hospitals may use funds appropriated in this subsection to purchase goods and supplies through hospital group purchasing organizations when it is cost-effective to do so.

(b) The mental health program at Western state hospital shall continue to use labor provided by the Tacoma prerelease program of the department of corrections.

(c) \$124,000 of the general fund—state appropriation for fiscal year 2005, \$19,000 of the general fund—private/local appropriation, and \$17,000 of the general fund—federal appropriation are provided solely for implementation of Senate Bill No. 6358 (treatment orders). If Senate Bill No. 6358 is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(d) During the 2003-05 biennium, the department may not reduce the number of inpatient psychiatric hospital beds in the state hospitals below existing levels of 642 at Western State Hospital and 191 at Eastern State Hospital, until such time as there are available community resources, especially inpatient facilities, at an average cost equal to or less than the respective hospital's daily rate and the reduction receives legislative approval. In addition, residential beds in the program for adaptive living skills at Western State Hospital may be closed only if the department provides sufficient resources for these patients' mental health care to the communities in which they are placed.

(3) CIVIL COMMITMENT

General Fund—State Appropriation (FY 2004)	(\$28,695,000)
	\$29,194,000
General Fund—State Appropriation (FY 2005)	(\$32,081,000)
	\$34,400,000
TOTAL APPROPRIATION	(\$60,776,000)
	\$63,594,000

The appropriations in this subsection are subject to the following conditions and limitations:

~~(a) ((\$1,381,000 of the general fund—state appropriation for fiscal year 2004 and \$2,090,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for operational costs associated with a less restrictive step-down placement facility on McNeil Island.~~

~~(b))) \$300,000 of the general fund—state appropriation for fiscal year 2004 and \$300,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for public safety mitigation funding for jurisdictions affected by the placement of ((less restrictive alternative facilities for persons conditionally released from the special commitment center facility being constructed)) the secure community transition facility on McNeil Island. Of this amount, \$45,000 per year shall be provided to the city of Lakewood on September 1, 2003, and September 1, 2004, for police protection ((reimbursement)) services provided by the city at Western State Hospital and adjacent areas((; up to \$45,000 per year shall be provided on September 1, 2003, and September 1, 2004, for training~~

police personnel under chapter 12, Laws of 2001, 2nd sp. sess. (3ESSB 6151); up to \$125,000 per year shall be provided to Pierce county on September 1, 2003, and September 1, 2004, for reimbursement of additional costs; and the remaining amounts are for other documented costs by jurisdictions directly impacted by the placement of the secure community transition facility on McNeil Island. Pursuant to chapter 12, Laws of 2001, 2nd sp. sess. (3ESSB 6151), the department shall continue to work with local jurisdictions towards reaching agreement for mitigation costs)). Of the remaining \$255,000 per year, the department shall reimburse the affected jurisdictions for their documented costs that have been negotiated in an interagency agreement between the department and each jurisdiction, as follows:

(i) Up to \$125,000 per year shall be provided to Pierce county for its additional public safety costs as defined in RCW 71.09.344(2).

(ii) Up to \$45,000 per year shall be provided to affected jurisdictions other than Pierce county for the costs of training their law enforcement and administrative personnel as defined in RCW 71.09.344(2)(a).

(iii) The remaining amounts are for affected jurisdictions other than Pierce county for reimbursement of their documented public safety costs as defined in RCW 71.09.344(2) (b), (c), and (d).

~~((e) \$924,000 of the general fund—state appropriation for fiscal year 2004 and \$1,429,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for operational costs associated with a less restrictive step-down placement facility located outside of Pierce county. In selecting a site, the department is encouraged to purchase or lease a site in an industrial area close to employment opportunities and treatment services, in an effort to reduce operating expenditures related to transportation and staff time.))~~

(b) \$4,000 of the general fund—state appropriation for fiscal year 2004 and \$354,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for mitigation costs associated with the development and occupancy of the secure community transition facility in Seattle, as described in the settlement agreement dated February 3, 2004, between the department and the city of Seattle. If *City of Seattle v. DSHS*, King County Superior Court Cause No. 03-2-37882-SEA is not dismissed with prejudice by July 1, 2004, this appropriation shall lapse. If the proceeding requested by the city under RCW 71.09.342(5) is not withdrawn or dismissed with prejudice by July 1, 2004, this appropriation shall lapse.

(c) \$1,212,000 of the general fund—state appropriation for fiscal year 2004 and \$1,260,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for legal fees charged to the special commitment program, including increased hourly rates.

(4) SPECIAL PROJECTS

General Fund—Federal Appropriation \$2,082,000

(5) PROGRAM SUPPORT

General Fund—State Appropriation (FY 2004) ~~(\$2,863,000)~~

\$3,124,000

General Fund—State Appropriation (FY 2005) ~~(\$2,751,000)~~

\$3,208,000

General Fund—Federal Appropriation ~~(\$5,011,000)~~

	<u>\$5,918,000</u>
TOTAL APPROPRIATION	((\$10,625,000))
	<u>\$12,250,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$113,000 of the general fund—state appropriation for fiscal year 2004, \$125,000 of the general fund—state appropriation for fiscal year 2005, and \$164,000 of the general fund—federal appropriation are provided solely for the institute for public policy to evaluate the impacts of chapter 214, Laws of 1999 (mentally ill offenders), chapter 297, Laws of 1998 (commitment of mentally ill persons), and chapter 334, Laws of 2001 (mental health performance audit).

(b) \$50,000 of the general fund—state appropriation for fiscal year 2004 and \$50,000 of the general fund—federal appropriation are provided solely for a study of the prevalence of mental illness among the state’s regional support networks. The study shall examine how reasonable estimates of the prevalence of mental illness relate to the incidence of persons enrolled in medical assistance programs in each regional support network area. In conducting this study, the department shall consult with the joint legislative audit and review committee, regional support networks, community mental health providers, and mental health consumer representatives. The department shall submit a final report on its findings to the fiscal, health care, and human services committees of the legislature by November 1, 2003.

(c) \$53,000 of the general fund—state appropriation and \$47,000 of the general fund—federal appropriation for fiscal year 2005 are provided solely for development of a plan for maintaining and increasing the number of beds available for treatment of persons experiencing acute psychiatric emergencies. The plan is to provide an estimate of the number of state hospital and community acute care beds needed in different areas of the state, and to estimate the construction and operating cost of meeting that need under alternative operating arrangements.

*Sec. 204 was partially vetoed. See message at end of chapter.

Sec. 205. 2003 1st sp.s. c 25 s 205 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
DEVELOPMENTAL DISABILITIES PROGRAM**

(1) COMMUNITY SERVICES

General Fund—State Appropriation (FY 2004)	((\$262,458,000))
	<u>\$250,633,000</u>
General Fund—State Appropriation (FY 2005)	((\$268,826,000))
	<u>\$274,414,000</u>
General Fund—Federal Appropriation	((\$439,489,000))
	<u>\$453,434,000</u>
Health Services Account—State Appropriation	((\$1,038,000))
	<u>\$971,000</u>
TOTAL APPROPRIATION	((\$971,811,000))
	<u>\$979,452,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Any new funding for family support and high school transition along with a portion of existing funding for these programs shall be provided as supplemental security income (SSI) state supplemental payments for persons with developmental disabilities in families with taxable incomes at or below 150 percent of median family income. Individuals receiving family support or high school transition payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(b) The health services account appropriation and ~~((\\$1,038,000))~~ \$971,000 of the general fund—federal appropriation are provided solely for health care benefits for home care workers with family incomes below 200 percent of the federal poverty level who are employed through state contracts for twenty hours per week or more.

(i) Premium payments for individual provider home care workers shall be made only to the subsidized basic health plan.

(ii) Home care agencies may obtain coverage either through the basic health plan or through an alternative plan with substantially equivalent benefits. Premium payments made to home care agencies shall be limited to home care workers who are employed at least twenty hours per week to serve state-funded clients. It is the intent of the legislature to fund the purchase of health care benefits for agency home care providers in a more fiscally prudent manner. The legislature encourages agency providers to purchase more cost-effective health care benefits, including increasing participation in the basic health plan or purchasing substantially equivalent benefits with substantially equivalent costs.

(c) ~~((\\$510,000))~~ \$562,000 of the general fund—state appropriation for fiscal year 2004, ~~((\\$784,000))~~ \$1,767,000 of the general fund—state appropriation for fiscal year 2005, and ~~((\\$1,225,000))~~ \$2,266,000 of the general fund—federal appropriation are provided solely for community residential and support services. Funding in this subsection shall be prioritized for (i) residents of residential habilitation centers who are able to be adequately cared for in community settings and who choose to live in those community settings; ~~(and)~~ (ii) clients without residential services who are at immediate risk of institutionalization or in crisis; (iii) children who are aging out of other state services; and (iv) current home and community-based waiver program clients who have been assessed as having an immediate need for increased services. The department shall ensure that the average cost per day for all program services other than start-up costs shall not exceed \$300. In order to maximize the number of clients served and ensure the cost-effectiveness of the waiver programs, the department will strive to limit new client placement expenditures to 90 percent of the budgeted daily rate. If this can be accomplished, additional clients may be served with excess funds provided the total projected carry-forward expenditures do not exceed the amounts estimated. The department shall implement the four new waiver programs such that decisions about enrollment levels and the amount, duration, and scope of services maintain expenditures within appropriations. The department shall electronically report to the appropriate committees of the legislature, within 45 days following each

fiscal year quarter, the number of residents moving into community settings and the actual expenditures for all community services to support those residents.

(d) (~~(\$511,000)~~) \$563,000 of the general fund—state appropriation for fiscal year 2004, (~~(\$616,000)~~) \$1,390,000 of the general fund—state appropriation for fiscal year 2005, and (~~(\$1,073,000)~~) \$1,905,000 of the general fund—federal appropriation are provided solely for expanded community services for persons with developmental disabilities who also have community protection issues (~~(or are diverted or discharged from state psychiatric hospitals)~~). Funding in this subsection shall be prioritized for (i) clients being diverted or discharged from the state psychiatric hospitals; (ii) clients participating in the dangerous mentally ill offender program; (iii) clients participating in the community protection program; and (iv) mental health crisis diversion outplacements. The department shall ensure that the average cost per day for all program services other than start-up costs shall not exceed \$300. In order to maximize the number of clients served and ensure the cost-effectiveness of the waiver programs, the department will strive to limit new client placement expenditures to 90 percent of the budgeted daily rate. If this can be accomplished, additional clients may be served with excess funds provided the total projected carry-forward expenditures do not exceed the amounts estimated. The department shall implement the four new waiver programs such that decisions about enrollment levels and the amount, duration, and scope of services maintain expenditures within appropriations. The department shall electronically report to the appropriate committees of the legislature, within 45 days following each fiscal year quarter, the number of persons served with these additional community services, where they were residing, what kinds of services they were receiving prior to placement, and the actual expenditures for all community services to support these clients.

(e) The department shall provide a status report on the transition, implementation, and operation of the four home and community-based waivers that will replace the community alternatives program waiver. The department shall electronically report to the appropriate committees of the legislature, within 45 days following each fiscal year quarter for the quarters through December 2004, the following information for each home and community-based waiver: Total projected state and federal fiscal year expenditures, year-to-date actual expenditures compared to projected expenditures, year-to-date unduplicated clients compared to projected clients, actual average per capita costs compared to projected per capita costs, number of transfers between waivers, amount of emergency funds spent to date compared to projected emergency costs, state and federal funds transferred from the medicaid personal care program to the four home and community-based waiver programs, and the year-to-date number of new clients added to a waiver program.

(f) The department may transfer funding provided in this subsection to meet the purposes of subsection (2) of this section to the extent that fewer residents of residential habilitation centers choose to move to community placements than was assumed in this appropriation.

(~~(f)~~) (~~(\$3,290,000)~~) (g) \$3,202,000 of the general fund—state appropriation for fiscal year 2004, (~~(\$4,773,000)~~) \$4,472,000 of the general fund—state appropriation for fiscal year 2005, and (~~(\$7,504,000)~~) \$7,633,000 of the general fund—federal appropriation are provided solely for the purpose of providing a

wage increase effective October 1, 2003, for individual home care workers providing state-funded services. The amounts in this subsection also include the funds needed for the employer share of unemployment and social security taxes on the amount of the increase.

~~((g) \$355,000)~~ (h) \$213,000 of the general fund—state appropriation for fiscal year 2004, ~~((517,000))~~ \$289,000 of the general fund—state appropriation for fiscal year 2005, and ~~((848,000))~~ \$500,000 of the general fund—federal appropriation are provided solely to increase payments to agency home care providers from \$13.44 per hour to \$14.27 per hour effective October 1, 2003. The amounts in this subsection shall be used to increase ~~((wages))~~ compensation for direct care workers by 75 cents per hour. The amounts in this subsection also include the funds needed for the employer share of unemployment and social security taxes on the amount of the increase.

(i) \$1,000,000 of the general fund—state appropriation for fiscal year 2005 and \$300,000 of the general fund—federal appropriation are provided solely for employment and day services. Priority consideration for this new funding shall be young adults with developmental disabilities living with their family who need employment opportunities and assistance after high school graduation. Services shall be provided proportionately between waiver and nonwaiver clients. Federal funds may be used to enhance this funding only to the extent that a client is already on a home and community-based waiver. This funding shall not be used to add new clients to a home and community-based waiver.

(j) \$312,000 of the general fund—state appropriation for fiscal year 2005 and \$290,000 of the general fund—federal appropriation are provided solely to increase payments to agency home care providers from \$14.27 per hour to \$14.93 per hour, effective October 1, 2004. The amounts in this subsection shall be used to increase compensation for direct care workers by 50 cents per hour. The amounts in this subsection also include the funds needed for the employer share of unemployment and social security taxes on the amount of the increase.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2004)	((71,862,000))
	<u>\$67,708,000</u>
General Fund—State Appropriation (FY 2005)	((70,926,000))
	<u>\$70,794,000</u>
General Fund—Federal Appropriation	((144,682,000))
	<u>\$148,998,000</u>
General Fund—Private/Local Appropriation	\$11,228,000
TOTAL APPROPRIATION	((298,698,000))
	<u>\$298,728,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: The department may transfer funding provided in this subsection to meet the purposes of subsection (1) of this section to the extent that more residents of residential habilitation centers choose to move to community placements than was assumed in this appropriation.

(3) PROGRAM SUPPORT

General Fund—State Appropriation (FY 2004)	((2,245,000))
	<u>\$2,474,000</u>

General Fund—State Appropriation (FY 2005)	((\$2,245,000))	<u>\$3,208,000</u>
General Fund—Federal Appropriation	((\$2,965,000))	<u>\$4,209,000</u>
Telecommunications Devices for the Hearing and Speech Impaired Account Appropriation	((\$1,782,000))	<u>\$891,000</u>
TOTAL APPROPRIATION	((\$9,237,000))	<u>\$10,782,000</u>

The appropriation in this subsection is subject to the following conditions and limitations: \$245,000 of the general fund—state appropriation for fiscal year 2004, \$996,000 of the general fund—state appropriation for fiscal year 2005, and \$1,258,000 of the general fund—federal appropriation are provided solely for the purpose of developing and implementing a consistent needs assessment instrument for use on all clients with developmental disabilities. In developing the instrument, the department shall develop a process for collecting data on family income for minor children with developmental disabilities who are clients of the department and shall ensure that this information is captured as part of the client assessment process.

(4) SPECIAL PROJECTS

General Fund—Federal Appropriation	((\$11,993,000))	<u>\$13,604,000</u>
--	-------------------------------	---------------------

Sec. 206. 2003 1st sp.s. c 25 s 206 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—AGING AND ADULT SERVICES PROGRAM

General Fund—State Appropriation (FY 2004)	((\$557,645,000))	<u>\$523,896,000</u>
General Fund—State Appropriation (FY 2005)	((\$570,669,000))	<u>\$578,270,000</u>
General Fund—Federal Appropriation	((\$1,162,511,000))	<u>\$1,187,250,000</u>
General Fund—Private/Local Appropriation		\$18,644,000
Health Services Account—State Appropriation		\$4,888,000
TOTAL APPROPRIATION	((\$2,314,357,000))	<u>\$2,312,948,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The entire health services account appropriation, \$1,476,000 of the general fund—state appropriation for fiscal year 2004, ((~~\$1,476,000~~)) \$1,043,000 of the general fund—state appropriation for fiscal year 2005, and ((~~\$7,284,000~~)) \$6,851,000 of the general fund—federal appropriation are provided solely for health care benefits for home care workers who are employed through state contracts for at least twenty hours per week.

(a) Premium payments for individual provider home care workers shall be made only to the subsidized basic health plan, and only for persons with incomes below 200 percent of the federal poverty level.

(b) Home care agencies may obtain coverage either through the basic health plan or through an alternative plan with substantially equivalent benefits. Premium payments made to home care agencies shall be limited to home care workers who are employed at least twenty hours per week to serve state-funded clients. It is the intent of the legislature to fund the purchase of health care benefits for agency home care providers in a more fiscally prudent manner. The legislature encourages agency providers to purchase more cost-effective health care benefits, including increasing participation in the basic health plan or purchasing substantially equivalent benefits with substantially equivalent costs.

(2) \$1,768,000 of the general fund—state appropriation for fiscal year 2004 and \$1,768,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for operation of the volunteer chore services program.

(3) For purposes of implementing chapter 74.46 RCW, the weighted average nursing facility payment rate shall be no more than ~~(((\$144.54))~~ \$142.04 for fiscal year 2004, and no more than ~~(((\$147.43))~~ \$148.11 for fiscal year 2005. For all facilities, the direct care, therapy care, support services, and operations component rates established in accordance with chapter 74.46 RCW shall be adjusted for economic trends and conditions by 3.0 percent effective July 1, 2003, and by an additional 2.4 percent effective July 1, 2004.

(4) In accordance with chapter 74.46 RCW, the department shall issue certificates of capital authorization that result in up to \$32 million of increased asset value completed and ready for occupancy in fiscal year 2004; up to \$32 million of increased asset value completed and ready for occupancy in fiscal year 2005; and up to \$32 million of increased asset value completed and ready for occupancy in fiscal year 2006.

(5) Adult day health services shall not be considered a duplication of services for persons receiving care in long-term care settings licensed under chapter 18.20, 72.36, or 70.128 RCW.

(6) In accordance with chapter 74.39 RCW, the department may implement ~~((a))~~ two ~~waiver programs~~ for persons who do not qualify for such services as categorically needy, subject to federal approval and the following conditions and limitations:

(a) ~~((The))~~ One waiver program shall include coverage of care in community residential facilities. Enrollment in the waiver shall not exceed 600 persons ~~((by the end of fiscal year 2004, nor 600 persons by the end of fiscal year 2005))~~ at any time.

(b) The second waiver program shall include coverage of in-home care. Enrollment in this second waiver shall not exceed 200 persons at any time.

(c) The department shall identify the number of medically needy nursing home residents, and enrollment and expenditures on each of the two medically needy waivers, on monthly management reports.

~~((e))~~ (d) The department shall track and electronically report to health care and fiscal committees of the legislature by November 15, 2004, on the types of long-term care support a sample of waiver participants were receiving prior to their enrollment in the waivers, how those services were being paid for, and an assessment of their adequacy.

(e) If it is necessary to establish a waiting list for either waiver because the budgeted number of enrollment opportunities has been reached, the department shall track how the long-term care needs of applicants assigned to the waiting list are met.

(7) \$118,000 of the general fund—state appropriation for fiscal year 2004, \$118,000 of the general fund—state appropriation for fiscal year 2005, and \$236,000 of the general fund—federal appropriation are provided solely for the department to assess at least annually each elderly resident residing in residential habilitation centers and state-operated living alternatives to determine if the resident can be more appropriately served in a less restrictive setting.

(a) The department shall consider the proximity to the resident of the family, friends, and advocates concerned with the resident's well-being in determining whether the resident should be moved from a residential habilitation center to a different facility or program.

(b) In assessing an elderly resident under this section and to ensure appropriate placement, the department shall identify the special needs of the resident, the types of services that will best meet those needs, and the type of facility that will best provide those services.

(c) The appropriate interdisciplinary team shall conduct the evaluation.

(d) If appropriate, the department shall coordinate with the local mental health authority.

(e) The department may explore whether an enhanced rate is needed to serve this population.

~~(8) Within funds appropriated in this section, the department may ((assess nursing facility residents with Alzheimer's disease or related dementias to determine whether such residents can be more appropriately served in licensed boarding home facilities that specialize in caring for such conditions. The department may, based upon the assessments and within existing funds, pay dementia pilot project rates on behalf of))~~ expand the number of boarding home beds participating in the dementia pilot project by up to 200. These additional beds shall provide persons with Alzheimer's disease or related dementias who ((move from nursing facilities to specialized boarding homes)) might otherwise require nursing home care accommodation in licensed boarding home facilities that specialize in caring for such conditions.

(9) The department shall establish waiting lists to the extent necessary to assure that annual expenditures on the community options program entry systems (COPEs) program do not exceed appropriated levels. In establishing and managing any such waiting list, the department shall assure priority access to persons with the greatest unmet needs, as determined by department assessment processes.

(10) ~~(\$7,102,000)~~ \$6,418,000 of the general fund—state appropriation for fiscal year 2004, ~~(\$10,065,000)~~ \$8,620,000 of the general fund—state appropriation for fiscal year 2005, and ~~(\$17,029,000)~~ \$15,038,000 of the general fund—federal appropriation are provided solely for the purpose of providing a wage increase effective October 1, 2003, for individual home care workers providing state-funded services. The amounts in this subsection also include the funds needed for the employer share of unemployment and social security taxes on the amount of the increase.

(11) ~~(\$2,219,000)~~ \$2,294,000 of the general fund—state appropriation for fiscal year 2004, ~~(\$3,192,000)~~ \$3,266,000 of the general fund—state appropriation for fiscal year 2005, and ~~(\$5,263,000)~~ \$5,560,000 of the general fund—federal appropriation are provided solely to increase payments to agency home care providers from \$13.44 per hour to \$14.27 per hour effective October 1, 2003. The amounts in this subsection shall be used to increase ~~(wages)~~ compensation for direct care workers by 75 cents per hour. The amounts in this subsection also include the funds needed for the employer share of unemployment and social security taxes on the amount of the increase.

(12) \$1,952,000 of the general fund—state appropriation for fiscal year 2005 and \$1,941,000 of the general fund—federal appropriation are provided solely to increase payments to agency home care providers from \$14.27 per hour to \$14.93 per hour, effective October 1, 2004. The amounts in this subsection shall be used to increase compensation for direct care workers by 50 cents per hour. The amounts in this subsection also include the funds needed for the employer share of unemployment and social security taxes on the amount of the increase.

(13) \$500,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for area agencies on aging, or entities with which area agencies on aging contract, to provide support services for grandparents and other formal and informal kinship caregivers of children throughout the state.

(a) Support services shall include but not be limited to assistance in gaining access to those services, counseling, organization of support groups, and respite care.

(b) In providing support services under the kinship caregivers support program, area agencies on aging shall give priority to kinship caregivers who are at the greatest risk of being unable to maintain the caregiving role.

(c) In carrying out the kinship caregivers support program, each area agency on aging shall coordinate the activities of the agency, or entities with which the agency contracts, with the activities of other public and private agencies or organizations providing similar services for kinship caregivers.

Sec. 207. 2003 1st sp.s. c 25 s 207 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
ECONOMIC SERVICES PROGRAM**

General Fund—State Appropriation (FY 2004)	(\$408,184,000)
	<u>\$445,968,000</u>
General Fund—State Appropriation (FY 2005)	(\$407,363,000)
	<u>\$437,720,000</u>
General Fund—Federal Appropriation	(\$1,209,758,000)
	<u>\$1,208,746,000</u>
General Fund—Private/Local Appropriation	(\$33,880,000)
	<u>\$33,891,000</u>
TOTAL APPROPRIATION	(\$2,059,185,000)
	<u>\$2,126,325,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$273,652,000 of the general fund—state appropriation for fiscal year 2004, \$273,695,000 of the general fund—state appropriation for fiscal year 2005, and \$1,000,222,000 of the general fund—federal appropriation are provided solely for all components of the WorkFirst program. Within the amounts provided for the WorkFirst program, the department shall:

(a) Continue to implement WorkFirst program improvements that are designed to achieve progress against outcome measures specified in RCW 74.08A.410. Valid outcome measures of job retention and wage progression shall be developed and reported quarterly to appropriate fiscal and policy committees of the legislature for families who leave assistance, measured after 12 months, 24 months, and 36 months. The department shall also report the percentage of families who have returned to temporary assistance for needy families after 12 months, 24 months, and 36 months;

(b) Submit a report by October 1, 2003, to the fiscal committees of the legislature containing a spending plan for the WorkFirst program. The plan shall identify how spending levels in the 2003-2005 biennium will be adjusted to stay within available federal grant levels and the appropriated state-fund levels; and

~~((c) Include an urban adjustment factor for child care providers in urban areas of region I.))~~

(2) ~~(((\$45,639,000)) \$57,547,000~~ of the general fund—state appropriation for fiscal year 2004 and ~~(((\$39,335,000)) \$59,953,000~~ of the general fund—state appropriation for fiscal year 2005 are provided solely for cash assistance and other services to recipients in the general assistance—unemployable program. Within these amounts, the department may expend funds for services that assist recipients to reduce their dependence on public assistance, provided that expenditures for these services and cash assistance do not exceed the funds provided.

(3) ~~(((\$1,436,000)) \$936,000~~ of the general fund—state appropriation for fiscal year 2004 and ~~(((\$1,436,000)) \$936,000~~ of the general fund—state appropriation for fiscal year 2005 are provided for the department to assist in naturalization efforts for legal aliens whose eligibility for federal supplemental security income has expired. The department shall use funding previously spent on general assistance employment supports for these naturalization services.

(4) \$3,940,000 of the general fund—state appropriation for fiscal year 2004 and \$3,940,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the food assistance program for legal immigrants. The level of benefits shall be equivalent to the benefits provided by the federal food stamp program.

(5) \$9,142,000 of the general fund—federal appropriation is provided solely for increased reimbursement of county legal-clerk services for child support enforcement. The department shall ensure this increase in cost does not reduce federal incentive payments.

(6) In reviewing the budget for the division of child support, the legislature has conducted a review of the Washington state child support schedule, chapter 26.19 RCW, and supporting documentation as required by federal law. The legislature concludes that the application of the support schedule continues to result in the correct amount of child support to be awarded. No further changes will be made to the support schedule or the economic table at this time.

(7) \$1,250,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the department to maintain specialized employment services through the WorkFirst/LEP pathway program for refugees and other limited-English-proficient (LEP) families and individuals that receive temporary assistance for needy families, state family assistance, or refugee cash assistance benefits. These employment services include but are not limited to English as a second language (ESL), job placement assistance, and work support services.

(8) \$96,000 of the general fund—state appropriation for fiscal year 2005, \$16,000 of the general fund—federal appropriation, and \$11,000 of the general fund—local appropriation are provided solely for the implementation of Engrossed Senate Bill No. 6411 (reducing hunger), including section 2 of the act. If the bill is not enacted by June 30, 2004, the amounts provided in this section shall lapse.

(9) \$500,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for a subsidy rate increase for child care providers in urban areas of region 1.

Sec. 208. 2003 1st sp.s. c 25 s 208 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
ALCOHOL AND SUBSTANCE ABUSE PROGRAM**

General Fund—State Appropriation (FY 2004)	((\$40,320,000))
	<u>\$39,979,000</u>
General Fund—State Appropriation (FY 2005)	((\$40,320,000))
	<u>\$41,201,000</u>
General Fund—Federal Appropriation	((\$90,632,000))
	<u>\$94,105,000</u>
General Fund—Private/Local Appropriation	\$630,000
Public Safety and Education Account—State Appropriation	((\$7,160,000))
	<u>\$2,060,000</u>
Criminal Justice Treatment Account—State Appropriation	\$8,950,000
Violence Reduction and Drug Enforcement Account— State Appropriation	((\$44,342,000))
	<u>\$49,142,000</u>
<u>Problem Gambling Treatment Account—State Appropriation</u>	<u>\$500,000</u>
TOTAL APPROPRIATION	((\$232,354,000))
	<u>\$236,567,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$966,197 of the general fund—state appropriation for fiscal year 2004 and \$966,197 of the general fund—state appropriation for fiscal year 2005 are provided solely for the parent child assistance program. The department shall contract with the University of Washington and community-based providers in Spokane and Yakima for the provision of this program. For all contractors, indirect charges for administering the program shall not exceed ten percent of the total contract amount.

(2) \$250,000 of the general fund—state appropriation for fiscal year 2005 is provided for the Washington state mentoring partnership.

(3) \$500,000 of the problem gambling treatment account appropriation is provided solely to implement Second Substitute House Bill No. 2776 (problem gambling). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

Sec. 209. 2003 1st sp.s. c 25 s 209 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
MEDICAL ASSISTANCE PROGRAM**

General Fund—State Appropriation (FY 2004)	(\$1,184,774,000)
	<u>\$1,119,073,000</u>
General Fund—State Appropriation (FY 2005)	(\$1,265,423,000)
	<u>\$1,248,580,000</u>
General Fund—Federal Appropriation	(\$3,764,258,000)
	<u>\$3,892,248,000</u>
General Fund—Private/Local Appropriation	(\$262,736,000)
	<u>\$278,296,000</u>
Emergency Medical Services and Trauma Care Systems	
Trust Account—State Appropriation	(\$23,700,000)
	<u>\$14,004,000</u>
Health Services Account—State Appropriation	(\$756,012,000)
	<u>\$708,854,000</u>
TOTAL APPROPRIATION	(\$7,256,903,000)
	<u>\$7,261,055,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Based on quarterly expenditure reports and caseload forecasts, if the department estimates that expenditures for the medical assistance program will exceed the appropriations, the department shall take steps including but not limited to reduction of rates or elimination of optional services to reduce expenditures so that total program costs do not exceed the annual appropriation authority.

(2) The department shall continue to extend medicaid eligibility to children through age 18 residing in households with incomes below 200 percent of the federal poverty level.

(3) In determining financial eligibility for medicaid-funded services, the department is authorized to disregard recoveries by Holocaust survivors of insurance proceeds or other assets, as defined in RCW 48.104.030.

(4) ~~(\$999,000)~~ \$493,000 of the health services account appropriation for fiscal year 2004, ~~(\$1,519,000)~~ \$748,000 of the health services account appropriation for fiscal year 2005, and ~~(\$2,142,000)~~ \$1,241,000 of the general fund—federal appropriation are provided solely for implementation of a "ticket to work" medicaid buy-in program for working persons with disabilities, operated in accordance with the following conditions:

(a) To be eligible, a working person with a disability must have total income which is less than 450 percent of poverty;

(b) Participants shall participate in the cost of the program by paying (i) a monthly enrollment fee equal to fifty percent of any unearned income in excess of the medicaid medically needy standard; and (ii) a monthly premium equal to 5 percent of all unearned income, plus 5 percent of all earned income after disregarding the first sixty-five dollars of monthly earnings, and half the remainder;

(c) The department shall establish more restrictive eligibility standards than specified in this subsection to the extent necessary to operate the program within appropriated funds; and

(d) The department may require point-of-service copayments as appropriate, except that copayments shall not be so high as to discourage appropriate service utilization, particularly of prescription drugs needed for the treatment of psychiatric conditions.

(5) Sufficient funds are appropriated in this section for the department to continue podiatry services for medicaid-eligible adults.

(6) Sufficient funds are appropriated in this section for the department to provide an adult dental benefit equivalent to approximately 75 percent of the dental benefit provided during the 2001-03 biennium. The department shall establish the scope of services to be provided within the available funds in consultation with dental providers and consumer representatives.

(7) The legislature reaffirms that it is in the state's interest for Harborview medical center to remain an economically viable component of the state's health care system.

(8) In accordance with RCW 74.46.625, (~~(\$52,057,000)~~) \$35,953,000 of the fiscal year 2004 health services account appropriation, (~~(\$35,016,000)~~) \$20,577,000 of the fiscal year 2005 health services account appropriation, and (~~(\$87,074,000)~~) \$61,037,000 of the general fund—federal appropriation are provided solely for supplemental payments to nursing homes operated by rural public hospital districts. The payments shall be conditioned upon (a) a contractual commitment by the association of public hospital districts and participating rural public hospital districts to make an intergovernmental transfer to the state treasurer, for deposit into the health services account, equal to at least (~~(94.5)~~) 91.9 percent of the supplemental payments; (b) a contractual commitment by the association of public hospital districts to return at least (~~(5.5)~~) 8.1 percent of the supplemental payments to the participating rural hospital districts; and (c) a contractual commitment by the participating districts to not allow expenditures covered by the supplemental payments to be used for medicaid nursing home rate setting. A hospital which does not participate in the supplemental payment intergovernmental transfer budgeted for fiscal year 2003 shall not be eligible to participate in the supplemental payments budgeted in this subsection for fiscal year(s) 2004 (~~and 2005~~). The participating districts shall retain no more than a total of \$9,600,000 for the 2003-05 biennium.

(9) (~~(\$14,616,000)~~) \$12,318,000 of the health services account appropriation for fiscal year 2004, (~~(\$12,394,000)~~) \$10,738,000 of the health services account appropriation for fiscal year 2005, and (~~(\$27,040,000)~~) \$23,056,000 of the general fund—federal appropriation are provided solely for additional disproportionate share and medicare upper payment limit payments to public hospital districts and to the state's teaching hospitals. The payments shall be conditioned upon a contractual commitment by the participating public

hospitals to make an intergovernmental transfer to the health services account equal to at least 91 percent of the additional payments. The state's teaching hospitals shall retain at least 28 percent of the amounts retained by hospitals under these programs, or the maximum allowable under the teaching hospitals' limits as established under the federal rule, whichever is less.

(10) ~~((3,100,000))~~ \$3,178,000 of the health services account appropriation, ~~((8,416,000))~~ \$4,208,000 of the general fund—local appropriation, and ~~((11,516,000))~~ \$7,308,000 of the general fund—federal appropriation are provided solely for grants to rural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(11) ~~((26,080,000))~~ \$36,002,000 of the health services account appropriation and \$26,080,000 of the general fund—federal appropriation are provided solely for grants to nonrural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

~~((13) \$156,000)~~ (12) \$302,000 of the general fund—state appropriation for fiscal year 2004, \$1,671,000 of the general fund—state appropriation for fiscal year 2005, and ~~((1,403,000))~~ \$17,757,000 of the general fund—federal appropriation are provided solely for ~~((a study to assess alternatives for replacing the existing medicaid management information system. The department shall report to the information services board and to the fiscal committees of the legislature by December 1, 2003, on the anticipated costs and benefits of the major alternative approaches))~~ development and implementation of a replacement system for the existing medicaid management information system. The medicaid management information system replacement project shall comply with section 902, chapter 25, Laws of 2003 1st sp. sess.

~~((14))~~ (13) The department shall implement a combination of cost containment and utilization strategies sufficient to reduce general fund—state costs for durable medical equipment and supplies in fiscal year 2005 by approximately 5 percent below the level projected for fiscal year 2005 in the February 2003 forecast. In designing strategies, the primary strategy considered shall be selective or direct contracting with durable medical equipment and supplies vendors or manufacturers.

~~((15))~~ (14) The department shall, within available resources, design and implement a medical care services care management pilot project for clients receiving general assistance benefits. The pilot project shall be operated in at least two of the counties with the highest concentration of general assistance clients, and may use a full or partial capitation model. In designing the project, the department shall consult with the mental health division and its managed care contractors that include community and migrant health centers in their provider network. The pilot project shall be designed to maximize care coordination, high-risk medical management, and chronic care management to achieve better health outcomes. The pilot project shall begin enrollment on July 1, 2004.

~~((46))~~ (15) Within available resources and to the extent possible, the department shall evaluate and pilot a nurse consultant services program to assist fee-for-service clients in accessing medical information, with the goal of reducing administrative burdens on physicians and unnecessary emergency room utilization.

~~((47))~~ (16) The department shall include in any pending medicaid reform section 1115 waiver application, or in any existing section 1115 waiver, a request for authorization to provide optional medicaid services that have been eliminated in this act to American Indian and Alaska Native persons as defined in relevant federal law who are eligible for medicaid only to the extent that such services are provided through the American Indian health system and are financed with one hundred percent federal medicaid matching funds.

~~((48))~~ (17) The department shall establish managed care rates within available funds ~~(, giving specific consideration to each plan's programmatic and financial performance, and ability to assure access in under-served areas)~~, in a manner that promotes health plan efficiency, encourages continuity of service, and assures access in underserved areas.

~~((49))~~ (18) The department of social and health services, the office of the superintendent of public instruction, and the department of health should jointly identify opportunities for early intervention and prevention activities that can help prevent disease and reduce oral health issues among children. Disease prevention among infants at the age of one year and among children entering the K-12 education system provides cost-effective ways to avoid higher health care spending later in life.

~~((20))~~ (19) The department shall secure a federal waiver, effective no later than September 1, 2003, which will enable it to charge co-premiums for medical and dental coverage of children whose family incomes exceed the federal poverty level.

~~((21))~~ (20) For purposes of RCW 74.09.800(2), ~~(\$9,549,000)~~ \$8,017,000 of the general fund—state appropriation for fiscal year 2004, ~~(\$10,779,000)~~ \$8,454,000 of the general fund—state appropriation for fiscal year 2005, and ~~(\$37,753,000)~~ \$30,588,000 of the general fund—federal appropriation are provided solely to provide prenatal care services to low-income women who are not eligible to receive such services under the medical assistance program, Title XIX of the federal social security act. If the department is unable to secure federal matching funds under Title XXI of the social security act, the department shall take all actions necessary to manage the program within these appropriated levels.

(21) \$13,588,000 of the health services account appropriation for fiscal year 2004, \$11,008,000 of the health services account appropriation for fiscal year 2005, and \$24,595,000 of the general fund—federal appropriation are provided solely for additional disproportionate share hospital payments to public hospital districts. The payments shall be conditioned upon a contractual commitment by the participating hospital districts to make an intergovernmental transfer to the health services account equal to at least 86.5 percent of the additional disproportionate share payment. The participating districts shall retain no more than \$6,607,000 of the total additional amount paid.

(22) \$10,000,000 of the general fund—federal and \$10,000,000 of the general fund—local funds are provided solely to increase payments in the

inpatient upper payment limit program for the state's teaching hospitals. Payments shall be made to the extent allowable under federal medicaid rule and law. The department shall work with the teaching hospitals to identify allowable sources of funding for the required match and to assure that the teaching hospitals are responsible for repayment of any disallowed federal matching funds.

Sec. 210. 2003 1st sp.s. c 25 s 210 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
VOCATIONAL REHABILITATION PROGRAM**

General Fund—State Appropriation (FY 2004)	(\$10,180,000)
	<u>\$10,172,000</u>
General Fund—State Appropriation (FY 2005)	(\$10,202,000)
	<u>\$10,191,000</u>
General Fund—Federal Appropriation	(\$85,803,000)
	<u>\$85,804,000</u>
General Fund—Local Appropriation	\$440,000
<u>Telecommunications Devices for the Hearing and</u>	
<u>Speech Impaired Account—State Appropriation</u>	<u>\$891,000</u>
TOTAL APPROPRIATION	(\$106,625,000)
	<u>\$107,498,000</u>

Sec. 211. 2003 1st sp.s. c 25 s 211 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
ADMINISTRATION AND SUPPORTING SERVICES PROGRAM**

General Fund—State Appropriation (FY 2004)	(\$35,926,000)
	<u>\$37,620,000</u>
General Fund—State Appropriation (FY 2005)	(\$25,968,000)
	<u>\$29,382,000</u>
General Fund—Federal Appropriation	(\$45,752,000)
	<u>\$52,580,000</u>
General Fund—Private/Local Appropriation	\$810,000
<u>Public Safety and Education Account—State</u>	
<u>Appropriation</u>	<u>\$2,444,000</u>
<u>Violence Reduction and Drug Enforcement Account—</u>	
<u>State Appropriation</u>	<u>\$4,152,000</u>
TOTAL APPROPRIATION	(\$108,456,000)
	<u>\$126,988,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$467,000 of the general fund—state appropriation for fiscal year 2004, \$769,000 of the general fund—state appropriation for fiscal year 2005, and \$1,236,000 of the general fund—federal appropriation are provided solely for transition costs associated with the downsizing effort at Fircrest school. The department shall organize the downsizing effort so as to minimize disruption to clients, employees, and the developmental disabilities program. The employees responsible for the downsizing effort shall report to the assistant secretary of the

aging and disability services administration. Within the funds provided in this subsection, the department shall:

- (a) Determine appropriate ways to maximize federal reimbursement during the downsizing process;
- (b) Meet and confer with representatives of affected employees on how to assist employees who need help to relocate to other state jobs or to transition to private sector positions;
- (c) Review opportunities for state employees to continue caring for clients by assisting them in developing privately operated community residential alternatives. In conducting the review, the department will examine efforts in this area pursued by other states as part of institutional downsizing efforts;
- (d) Keep appropriate committees of the legislature apprised, through regular reports and periodic e-mail updates, of the development of and revisions to the work plan regarding this downsizing effort; and
- (e) Provide a preliminary transition plan to the fiscal and policy committees of the legislature by January 1, 2004. The transition plan shall include recommendations on ways to continue to provide some of the licensed professional services offered at Fircrest school to clients being served in community settings.

(2) \$10,000,000 of the general fund—state appropriation for fiscal year 2004 is provided solely for one-time expenditures needed to meet the federally required level for state supplemental payments (SSP). The department shall transfer appropriate portions of this amount to other programs within the agency to accomplish this purpose. The department shall not initiate new services with this funding that will cause total future SSP expenditures to exceed the required annual maintenance-of-effort level.

(3) \$100,000 of the general fund—state appropriation for fiscal year 2004 and \$100,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for a contract for expanded services of the teamchild project.

(4) \$900,000 of the general fund—state appropriation for fiscal year 2004 and \$900,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the continued implementation of the juvenile violence prevention grant program established in section 204, chapter 309, Laws of 1999.

Sec. 212. 2003 1st sp.s. c 25 s 212 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
PAYMENTS TO OTHER AGENCIES PROGRAM**

General Fund—State Appropriation (FY 2004)	(((\$42,011,000)) \$43,454,000
General Fund—State Appropriation (FY 2005)	(((\$42,011,000)) \$43,493,000
General Fund—Federal Appropriation	(((\$41,994,000)) \$43,321,000
TOTAL APPROPRIATION	(((\$126,016,000)) \$130,268,000

Sec. 213. 2003 1st sp.s. c 25 s 213 (uncodified) is amended to read as follows:

FOR THE STATE HEALTH CARE AUTHORITY

State Health Care Authority Administrative	
Account—State Appropriation	(\$17,665,000)
	\$18,942,000
Health Services Account—State Appropriation	(\$415,459,000)
	\$417,890,000
General Fund—Federal Appropriation	(\$3,307,000)
	\$3,875,000
Medical Aid Account—State Appropriation	(\$128,000)
	\$213,000
TOTAL APPROPRIATION	(\$436,559,000)
	\$440,920,000

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$6,000,000 of)~~ \$2,500,000 of the health services account—state appropriation is provided solely to increase funding for health care services provided through local community clinics.

(2) ~~The health services account—state appropriation ((is provided solely to increase the number of persons not eligible for medicaid receiving dental care from nonprofit community clinics))~~ contains funding to provide dental care at community clinics for persons who are not current medicaid recipients, and for interpreter services to support dental and medical services for persons for whom interpreters are not available from any other source.

~~((2))~~ (3) \$50,000 of the health services account—state appropriation is provided solely to support the operation of an innovative clinic model for the delivery of health services to uninsured or publicly insured persons that is located in an urban underserved area and operated as a department or subsidiary of a hospital located in that underserved area; has been in operation for fewer than six months as of the effective date of this act; utilizes an innovative service delivery model that relies upon midlevel practitioners, volunteers, and students enrolled in health education programs and offers group visits for common conditions; and has a sliding fee schedule that assumes that every patient of the clinic will make some contribution towards the cost of his or her care.

(4) In order to maximize the number of enrollees who can be supported within appropriated amounts, the health care authority is directed to make modifications that will reduce the actuarial value of the basic health plan benefit by approximately 18 percent effective January I, 2004. Modifications may include changes in enrollee premium obligations, enrollee cost-sharing, benefits, and incentives to access preventative services. To the extent that additional actions are needed in order to operate within appropriated funds, new enrollments to the program shall be limited in a manner consistent with the authority's September 6, 2001, administrative policy on basic health plan enrollment management.

~~((3))~~ (5) Within funds appropriated in this section and sections 205 and 206 of this act, the health care authority shall continue to provide an enhanced basic health plan subsidy for foster parents licensed under chapter 74.15 RCW and workers in state-funded home care programs. Under this enhanced subsidy option, foster parents and home care workers with family incomes below 200 percent of the federal poverty level shall be allowed to enroll in the basic health

plan at the minimum premium amount charged to enrollees with incomes below sixty- five percent of the federal poverty level.

~~((4))~~ (6) The health care authority shall require organizations and individuals which are paid to deliver basic health plan services and which choose to sponsor enrollment in the subsidized basic health plan to pay 133 percent of the premium amount which would otherwise be due from the sponsored enrollees.

~~((5))~~ (7) The administrator shall take at least the following actions to assure that persons participating in the basic health plan are eligible for the level of assistance they receive: (a) Require submission of (i) income tax returns, and recent pay history, from all applicants, or (ii) other verifiable evidence of earned and unearned income from those persons not required to file income tax returns; (b) check employment security payroll records at least once every twelve months on all enrollees; (c) require enrollees whose income as indicated by payroll records exceeds that upon which their subsidy is based to document their current income as a condition of continued eligibility; (d) require enrollees for whom employment security payroll records cannot be obtained to document their current income at least once every six months; (e) not reduce gross family income for self-employed persons by noncash-flow expenses such as, but not limited to, depreciation, amortization, and home office deductions, as defined by the United States internal revenue service; and (f) pursue repayment and civil penalties from persons who have received excessive subsidies, as provided in RCW 70.47.060(9).

~~((6))~~ (8) To decrease administrative burdens for providers and plans participating in state purchased health care programs, the administrator, the assistant secretary for the medical assistance administration of the department of social and health services, and the director of the department of labor and industries, in collaboration with health carriers, health care providers, and the office of the insurance commissioner shall, within available resources:

(a) Improve the timeliness of claims processing and the distribution of medical assistance program fee schedules, and more clearly define the scope of coverage under managed care contracts;

(b) Improve the capacity for electronic billing and claims submission and provide electronic access to eligibility, benefits, and exclusion information;

(c) Develop clear audit and data requirements for contracting managed health care plans and improve consistency between claims processing and published fee schedules;

(d) Conform billing codes with providers and between agencies with national and regional standards wherever possible; and

(e) Take steps to implement cost-effective measures pursuant to this section by December 2004, and on or before December 1, 2003, provide a progress report to the relevant policy and fiscal committees of the legislature on the feasibility of implementation and any fiscal constraints or regulatory or statutory barriers.

Sec. 214. 2003 1st sp.s. c 25 s 217 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LABOR AND INDUSTRIES

General Fund—State Appropriation (FY 2004) \$5,863,000

General Fund—State Appropriation (FY 2005)	(((\$5,860,000))	
		<u>\$6,145,000</u>
Public Safety and Education Account—State		
Appropriation	\$22,391,000	
Public Safety and Education Account—Federal		
Appropriation	\$8,462,000	
Asbestos Account—State Appropriation	(((\$693,000))	
		<u>\$717,000</u>
Electrical License Account—State		
Appropriation	(((\$28,966,000))	
		<u>\$29,589,000</u>
Farm Labor Revolving Account—Private/Local		
Appropriation	\$28,000	
Worker and Community Right-to-Know Account—State		
Appropriation	(((\$2,544,000))	
		<u>\$2,557,000</u>
Public Works Administration Account—State		
Appropriation	(((\$2,411,000))	
		<u>\$2,477,000</u>
Accident Account—State Appropriation	(((\$187,843,000))	
		<u>\$188,181,000</u>
Accident Account—Federal Appropriation	\$13,396,000	
Medical Aid Account—State Appropriation	(((\$186,724,000))	
		<u>\$186,408,000</u>
Medical Aid Account—Federal Appropriation	\$2,960,000	
Plumbing Certificate Account—State		
Appropriation	(((\$1,451,000))	
		<u>\$1,490,000</u>
Pressure Systems Safety Account—State		
Appropriation	(((\$2,807,000))	
		<u>\$2,878,000</u>
TOTAL APPROPRIATION	(((\$472,399,000))	
		<u>\$473,542,000</u>

The appropriations in this section are subject to the following conditions and limitations:

~~((2))~~ (1) \$90,000 of the electrical license account—state appropriation and \$206,000 of the plumbing certificate account—state appropriation are provided solely to implement Engrossed Substitute Senate Bill No. 5713 (electrical contractors). If the bill is not enacted by June 30, 2003, the amounts provided in this subsection shall lapse.

~~((3) \$378,000)~~ (2) \$578,000 of the accident account—state appropriation is provided solely for the purpose of contracting with medical laboratories, health care providers, and other appropriate entities to provide cholinesterase medical monitoring of farm workers who handle cholinesterase-inhibiting pesticides, and to collect and analyze data related to such monitoring.

(3) \$453,000 of the accident account—state appropriation is provided solely for the purpose of reimbursing agricultural employers for the costs of training.

record-keeping, and travel related to cholinesterase medical monitoring of farm workers who handle cholinesterase-inhibiting pesticides.

(4) The department shall report to the office of financial management and the appropriate fiscal and policy committees of the legislature detailed information regarding administrative staffing levels and services by October 1, 2004, and prior to implementing phase II of the indirect cost study.

(5) \$399,000 of the accident account—state appropriation and \$399,000 of the medical aid account—state appropriation are provided solely for the expansion of workers' compensation fraud investigation activities. The department shall report quarterly to the office of financial management and the appropriate policy and fiscal committees of the legislature regarding the cost effectiveness of fraud activities, including the total dollars expended compared to total dollars recovered.

Sec. 215. 2003 1st sp.s. c 25 s 219 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF VETERANS AFFAIRS

(1) HEADQUARTERS

General Fund—State Appropriation (FY 2004)	(((\$1,527,000))
	<u>\$1,531,000</u>
General Fund—State Appropriation (FY 2005)	(((\$1,528,000))
	<u>\$1,536,000</u>
Charitable, Educational, Penal, and Reformatory Institutions Account—State Appropriation	\$11,000
TOTAL APPROPRIATION	(((\$3,066,000))
	<u>\$3,078,000</u>

(2) FIELD SERVICES

General Fund—State Appropriation (FY 2004)	(((\$2,579,000))
	<u>\$2,588,000</u>
General Fund—State Appropriation (FY 2005)	(((\$2,579,000))
	<u>\$2,596,000</u>
General Fund—Federal Appropriation	\$309,000
General Fund—Private/Local Appropriation	\$1,668,000
TOTAL APPROPRIATION	(((\$7,135,000))
	<u>\$7,161,000</u>

(3) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2004)	(((\$7,473,000))
	<u>\$7,380,000</u>
General Fund—State Appropriation (FY 2005)	(((\$5,890,000))
	<u>\$6,020,000</u>
General Fund—Federal Appropriation	(((\$27,207,000))
	<u>\$27,365,000</u>
General Fund—Private/Local Appropriation	\$27,822,000
TOTAL APPROPRIATION	(((\$68,392,000))
	<u>\$68,587,000</u>

Sec. 216. 2003 1st sp.s. c 25 s 220 (uncodified) is amended to read as follows:

FOR THE HOME CARE QUALITY AUTHORITY

General Fund—State Appropriation (FY 2004)	(\$412,000)
	\$360,000
General Fund—State Appropriation (FY 2005)	(\$259,000)
	\$471,000
TOTAL APPROPRIATION	(\$671,000)
	\$831,000

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$150,000)~~ \$98,000 of the general fund—state appropriation for fiscal year 2004 ~~(is)~~ and \$212,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the design and development of ~~(the)~~ a home care provider referral registry (mandated by Initiative Measure No. 775) as provided in RCW 74.39A.250. The authority and the department of social and health services shall jointly report to the fiscal committees of the legislature by December 1, 2004, with options for operating the regional and local components of the registry through cooperative agreements with area agencies on aging and/or the department's home and community services offices. The options shall identify the costs and benefits associated with several alternative levels of ongoing operational funding, at least one of which shall be to operate the registry within current levels of state and federal funding for the regional and local offices.

(2) Pursuant to RCW 74.39A.300(1), the legislature ~~(rejects)~~ rejected the collective bargaining agreement entered into by the home care quality authority and the exclusive bargaining representative of individual providers on January 13, 2003, under chapter 74.39A RCW (Initiative Measure No. 775).

Sec. 217. 2003 1st sp.s. c 25 s 221 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF HEALTH

General Fund—State Appropriation (FY 2004)	(\$58,143,000)
	\$57,853,000
General Fund—State Appropriation (FY 2005)	(\$60,224,000)
	\$60,346,000
Health Services Account—State Appropriation	(\$34,289,000)
	\$36,989,000
General Fund—Federal Appropriation	(\$348,897,000)
	\$392,762,000
General Fund—Private/Local Appropriation	\$93,601,000
Hospital Commission Account—State Appropriation	\$2,490,000
Health Professions Account—State Appropriation	(\$40,097,000)
	\$40,285,000
Emergency Medical Services and Trauma Care Systems Trust Account—State Appropriation	\$12,558,000
Safe Drinking Water Account—State Appropriation	\$2,728,000
Drinking Water Assistance Account—Federal	

Appropriation.....	(((\$13,498,000))
	<u>\$15,654,000</u>
Waterworks Operator Certification—State	
Appropriation.....	(((\$633,000))
	<u>\$1,053,000</u>
<u>Drinking Water Assistance Administrative Account—</u>	
<u>State Appropriation</u>	\$326,000
Water Quality Account—State Appropriation	\$3,359,000
Accident Account—State Appropriation	\$258,000
Medical Aid Account—State Appropriation	\$46,000
State Toxics Control Account—State	
Appropriation.....	\$2,761,000
Medical Test Site Licensure Account—State	
Appropriation.....	\$1,718,000
Youth Tobacco Prevention Account—State	
Appropriation.....	\$1,806,000
Tobacco Prevention and Control Account—State	
Appropriation.....	\$52,510,000
TOTAL APPROPRIATION	(((\$729,616,000))
	<u>\$779,103,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The department or any successor agency is authorized to raise existing fees charged for health care assistants, commercial shellfish paralytic shellfish poisoning, commercial shellfish licenses, ~~((and))~~ newborn screening programs, psychiatrically impaired children and youth residential treatment, and in-home services in excess of the fiscal growth factor established by Initiative Measure No. 601, if necessary, to meet the actual costs of conducting business and the appropriation levels in this section.

(2) \$1,337,000 of the general fund—state fiscal year 2004 appropriation and \$1,338,000 of the general fund—state fiscal year 2005 appropriation are provided solely for the implementation of the Puget Sound water work plan and agency action items, DOH-01, DOH-02, DOH-03, and DOH-04.

(3) The department of health shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation that provides appropriation authority, and an equal amount of appropriated state moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(4) (~~(\$21,650,000)~~) \$24,350,000 of the health services account—state appropriation is provided solely for the state's program of universal access to essential childhood vaccines. The department shall utilize all available federal funding before expenditure of these funds.

(5) \$2,984,000 of the general fund—local appropriation is provided solely for development and implementation of an internet-based system for preparing and retrieving death certificates as provided in Substitute Senate Bill No. 5545 (chapter 241, Laws of 2003, web-based vital records).

(6) The department of social and health services, the office of the superintendent of public instruction, and the department of health should jointly identify opportunities for early intervention and prevention activities that can help prevent disease and reduce oral health issues among children. Disease prevention among infants at the age of one year and among children entering the K-12 education system provides cost-effective ways to avoid higher health care spending later in life.

(7) \$92,000 of the general fund—state appropriation for fiscal year 2004, \$19,000 of the general fund—state appropriation for fiscal year 2005, and \$987,000 of the general fund—local appropriation are provided solely for implementation of Substitute House Bill No. 1338 (municipal water rights). If Substitute House Bill No. 1338 is not enacted by June 30, 2003, the amounts provided in this subsection shall lapse.

(8) \$188,000 of the health professions account—state appropriation is provided solely to increase the regulation of sales of precursor drugs that are often used to illegally manufacture methamphetamine to implement Senate Bill No. 6478 (ephedrine). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(9) \$25,000 of the general fund—state appropriation for fiscal year 2005 is provided solely to develop and implement best practices in preventative health care for children. The department and the kids get care program of public health - Seattle and King county will work in collaboration with local health care agencies to disseminate strategic interventions that are focused on evidence-based best practices for improving health outcomes in children and saving health care costs. A report shall be provided to the appropriate committees of the legislature by June 30, 2005, on the program effectiveness and cost savings. This funding shall be matched by an equal amount of local funding.

(10) \$250,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the department to implement a multiyear pilot project in Yakima county for persons with household income at or below 200 percent of the federal poverty level who are ineligible for family planning services through the medicaid program. Individuals who will be served under the pilot include women who have never been pregnant, are not currently pregnant, or are beyond the family planning extension period allowed for first steps program eligibility. It is anticipated that the pilot project will serve approximately 1,000 women annually. The department will provide a preliminary report to the appropriate committees of the legislature by December 1, 2005.

Sec. 218. 2003 1st sp.s. c 25 s 222 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS. The appropriations to the department of corrections in this act shall be expended for the programs and in the amounts specified herein. However, after May 1, 2004, after approval by the director of financial management and unless specifically prohibited by this act, the department may transfer general fund—state appropriations for fiscal year 2004 between programs. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing prior to approving any deviations from appropriation levels.

(1) ADMINISTRATION AND SUPPORT SERVICES

General Fund—State Appropriation (FY 2004)	.....((\$38,317,000))	
		<u>\$36,534,000</u>
General Fund—State Appropriation (FY 2005)	.....((\$35,473,000))	
		<u>\$38,835,000</u>
Public Safety and Education Account—State		
Appropriation	.....	\$3,657,000
Violence Reduction and Drug Enforcement		
Account Appropriation	.....	\$26,000
TOTAL APPROPRIATION	.....((\$77,473,000))	
		<u>\$79,052,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: ~~((~~\$3,250,000~~))~~ \$700,000 of the general fund—state appropriation for fiscal year 2004 ~~((is))~~ and \$2,550,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the continuation of phase two of the department's offender-based tracking system replacement project. ~~((This))~~ These amounts ~~((is))~~ are conditioned on the department satisfying the requirements of section 902 of this act.

(2) CORRECTIONAL OPERATIONS

General Fund—State Appropriation (FY 2004)	.....((\$441,122,000))	
		<u>\$458,402,000</u>
General Fund—State Appropriation (FY 2005)	.....((\$449,520,000))	
		<u>\$477,061,000</u>
General Fund—Federal Appropriation	.....((\$8,746,000))	
		<u>\$4,090,000</u>
Violence Reduction and Drug Enforcement Account—		
State Appropriation	.....	\$3,008,000
TOTAL APPROPRIATION	.....((\$902,396,000))	
		<u>\$942,561,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department may expend funds generated by contractual agreements entered into for mitigation of severe overcrowding in local jails. Any funds generated in excess of actual costs shall be deposited in the state general fund. Expenditures shall not exceed revenue generated by such agreements and shall be treated as recovery of costs.

(b) The department shall provide funding for the pet partnership program at the Washington corrections center for women at a level at least equal to that provided in the 1995-97 biennium.

(c) The department of corrections shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(d) During the 2003-05 biennium, when contracts are established or renewed for offender pay phone and other telephone services provided to inmates, the department shall select the contractor or contractors primarily based on the following factors: (i) The lowest rate charged to both the inmate and the person paying for the telephone call; and (ii) the lowest commission rates paid to the department, while providing reasonable compensation to cover the costs of the department to provide the telephone services to inmates and provide sufficient revenues for the activities funded from the institutional welfare betterment account.

(e) For the acquisition of properties and facilities, the department of corrections is authorized to enter into financial contracts, paid for from operating resources, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. This authority applies to the following: Lease-develop with the option to purchase or lease-purchase approximately 50 work release beds in facilities throughout the state for \$3,500,000.

(3) COMMUNITY SUPERVISION

General Fund—State Appropriation (FY 2004)	((\$73,952,000))
	<u>\$87,626,000</u>
General Fund—State Appropriation (FY 2005)	((\$74,200,000))
	<u>\$88,564,000</u>
Public Safety and Education	
Account—State Appropriation	\$15,492,000
TOTAL APPROPRIATION	((\$163,644,000))
	<u>\$191,682,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department of corrections shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(b) \$75,000 of the general fund—state appropriation for fiscal year 2004 and \$75,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the department of corrections to contract with the institute for public policy for responsibilities assigned in chapter 196, Laws of 1999 (offender accountability act) and sections 7 through 12 of chapter 197, Laws of 1999 (drug offender sentencing).

(c) \$100,000 of the general fund—state appropriation for fiscal year 2004 is provided solely for a pilot project to test the availability, reliability, and effectiveness of an electronic monitoring system based on passive data logging global positioning system technology for monitoring sex offenders.

(i) The department of corrections shall work with the Washington association of sheriffs and police chiefs and the department of social and health services to establish the pilot project.

(ii) The pilot project shall be of sufficient size to test the reliability of the technology in a variety of geographical circumstances including both urban and rural locations.

(iii) The pilot project shall test the system using sex or kidnapping offenders under the jurisdiction of the department of corrections and persons civilly committed under chapter 71.09 RCW under a variety of supervision circumstances. Offenders included in the pilot project shall be offenders who have been classified as level three offenders by the end of sentence review committee and over whom the department of corrections has authority to establish conditions of supervision or persons who have been ordered to be electronically monitored by the court in a proceeding under chapter 71.09 RCW and who have been classified as level three offenders by the end of sentence review committee.

(iv) The pilot project shall specifically examine the feasibility of electronic monitoring for level three sex offenders or kidnapping offenders who register as homeless or transient.

(v) The Washington association of sheriffs and police chiefs shall report to the appropriate committees of the legislature and the governor on the results of the pilot project by January 31, 2004. The report must include, but is not limited to:

(A) The availability of the technology, including a description of the system used and a discussion of the various types of global positioning system-based monitoring available and appropriate for a sex offender population;

(B) Any geographic or weather-related limitations posed by the technology;

(C) The reliability, including the false alarm rate of the technology;

(D) Any training requirements for department of corrections staff or supervised persons;

(E) Any distinctions in effectiveness or feasibility for different supervision populations;

(F) Costs, including equipment costs, monitoring fees, and any changes to department of corrections staffing levels;

(G) The ability of the subjects of the pilot to pay for daily and/or equipment costs;

(H) The rate of loss or damage to equipment used by the subjects of the pilot project; and

(I) Limitations in the pilot project to determining the answers to the items in this subsection (3)(c)(v).

The association shall make a recommendation in the report about the frequency and timing of monitoring reports, and the need for further study of the issue to determine efficacy and reliability.

(4) CORRECTIONAL INDUSTRIES

General Fund—State Appropriation (FY 2004)	\$626,000
General Fund—State Appropriation (FY 2005)	\$626,000
TOTAL APPROPRIATION	\$1,252,000

The appropriations in this subsection are subject to the following conditions and limitations: \$110,000 of the general fund—state appropriation for fiscal year 2004 and \$110,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for transfer to the jail industries board. The board shall use the amounts provided only for administrative expenses, equipment purchases, and technical assistance associated with advising cities and counties in developing, promoting, and implementing consistent, safe, and efficient offender work programs.

(5) INTERAGENCY PAYMENTS

General Fund—State Appropriation (FY 2004)	(\$25,099,000)
	\$26,259,000
General Fund—State Appropriation (FY 2005)	(\$25,134,000)
	\$26,288,000
TOTAL APPROPRIATION	(\$50,233,000)
	\$52,547,000

The appropriations in this subsection are subject to the following conditions and limitations: \$70,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 6489 (correctional industries). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

Sec. 219. 2003 1st sp.s. c 25 s 226 (uncodified) is amended to read as follows:

FOR THE EMPLOYMENT SECURITY DEPARTMENT

General Fund—Federal Appropriation	\$267,586,000
General Fund—Private/Local Appropriation	\$30,103,000
Unemployment Compensation Administration Account—	
Federal Appropriation	(\$184,878,000)
	\$192,366,000
Administrative Contingency Account—State	
Appropriation	(\$14,721,000)
	\$11,221,000
Employment Service Administrative Account—State	
Appropriation	\$23,184,000
TOTAL APPROPRIATION	(\$520,472,000)
	\$524,460,000

The appropriations in this subsection are subject to the following conditions and limitations:

(1) \$100,000 of the administrative contingency account appropriation is provided solely to ((establish an advisory partnership on the Washington manufacturing sector as outlined in Substitute House Bill No. 2164 (manufacturing advisory partnership) and recommended in the report entitled manufacturing in Washington state, 1990-2002: trends and implications for the industry and state)) the employment security department for manufacturing economic research and surveys with findings reported to relevant legislative committees, business, and labor.

(2) \$3,988,000 of the unemployment compensation administration account—federal appropriation is provided from funds made available to the

state by section 903(d) of the Social Security Act (Reed Act). These funds are provided to replace obsolete information technology infrastructure.

(3) \$3,500,000 of the unemployment compensation administration account—federal appropriation is provided from funds made available to the state by section 903(d) of the Social Security Act (Reed Act). These funds are authorized for employer outreach activities, employment service activities, and to prevent, detect, and collect unemployment insurance benefit overpayments.

Sec. 220. 2003 1st sp.s. c 25 s 216 (uncodified) is amended to read as follows:

FOR THE CRIMINAL JUSTICE TRAINING COMMISSION

Municipal Criminal Justice Assistance Account—

Local Appropriation. \$460,000

Death Investigations Account—State

Appropriation. \$148,000

Public Safety and Education Account—State

Appropriation. ((~~\$18,078,000~~))

\$18,153,000

TOTAL APPROPRIATION. ((~~\$18,686,000~~))

\$18,761,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$124,000 of the public safety and education account appropriation is provided solely to allow the Washington association of sheriffs and police chiefs to increase the technical and training support provided to the local criminal justice agencies on the new incident-based reporting system and the national incident-based reporting system.

(2) \$136,000 of the public safety and education account appropriation is provided solely to allow the Washington association of prosecuting attorneys to enhance the training provided to criminal justice personnel.

(3) \$65,000 of the public safety and education account appropriation is provided solely for regionalized training programs for school district and local law enforcement officials on school safety issues.

(4) \$250,000 of the public safety and education account appropriation is provided solely to the Washington association of sheriffs and police chiefs for staffing and support of a web site to provide information about sex offenders.

(5) \$25,000 of the public safety and education account appropriation is provided solely for allocation to the Washington association of sheriffs and police chiefs to coordinate jail and prison capacity and population projects with local governments, the sentencing guidelines commission, and the department of corrections. The association shall build on its existing work and that of the commission on regional jails and capacity issues, and may:

(a) Pursue options for regional jails where the cost is the same or lower than existing state and local corrections costs;

(b) Pursue options for the state to rent or purchase bed or facility space from local governments;

(c) Pursue options to manage population overcapacity and special populations; and

(d) Pursue options to develop better communication and information sharing processes between state and local correctional facilities.

The association shall provide an interim progress report to the appropriate fiscal and policy committees of the legislature no later than December 1, 2004.

(6) \$50,000 of the public safety and education account appropriation is provided solely for the implementation of Engrossed Substitute House Bill No. 2556 (criminal background checks). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

Sec. 221. 2003 1st sp.s. c 25 s 225 (uncodified) is amended to read as follows:

FOR THE SENTENCING GUIDELINES COMMISSION

General Fund—State Appropriation (FY 2004)	\$737,000
General Fund—State Appropriation (FY 2005)	\$741,000
TOTAL APPROPRIATION	\$1,478,000

The appropriations in this section are subject to the following conditions and limitations: The sentencing guidelines commission shall review the use, effectiveness, and cost effectiveness of sex offender sentencing, including the special sex offender sentencing alternative as follows:

(1) The review and evaluation shall include an analysis of whether current sex offense sentencing ranges and standards, as well as existing mandatory minimum sentences, existing sentence enhancements, and the special sex offender sentencing alternative, are consistent with the purposes of the sentencing reform act, as set out in RCW 9.94A.010, and the community protection act. The review in this area may summarize findings of the sentencing study required by chapter 7, Laws of 2001, and the work of the Washington state institute for public policy, and shall not be duplicative.

(2) In conducting the review and evaluation, the commission shall consult with the superior court judges' association, the Washington association of prosecuting attorneys, the Washington defenders' association, the Washington association of criminal defense lawyers, the Washington association of sheriffs and police chiefs, the Washington state institute for public policy, treatment providers, organizations representing crime victims, and other organizations and individuals with expertise and interest in sex offender sentencing policy and treatment. To the extent possible within available appropriations, the commission shall conduct open public hearings to obtain input from the victims, families, advocates, and others. Comments from the public shall be included in the report to the legislature.

(3) Not later than December 1, 2004, the commission shall present to the appropriate standing committees of the legislature the findings of its review and evaluation, together with any recommendations for revisions and modifications to sex offender sentencing and supervision policy, including sentencing ranges and standards, mandatory minimum sentences, sentencing alternatives, and sentence enhancements. If implementation of the recommendations of the commission would result in exceeding the capacity of local or state correctional facilities, the commission shall also present the fiscal impact of proposed changes.

(4) If Engrossed Substitute House Bill No. 2400 (sex crimes against minors) is enacted, the commission shall ensure that the study required by the bill is coordinated with the study required by this act.

**PART III
NATURAL RESOURCES**

Sec. 30I. 2003 1st sp.s. c 25 s 302 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

General Fund—State Appropriation (FY 2004)	(\$33,464,000)
	<u>\$35,828,000</u>
General Fund—State Appropriation (FY 2005)	(\$33,263,000)
	<u>\$35,911,000</u>
General Fund—Federal Appropriation	\$57,143,000
General Fund—Private/Local Appropriation	\$3,696,000
Special Grass Seed Burning Research Account—	
State Appropriation	\$14,000
Reclamation Revolving Account—State	
Appropriation	\$2,760,000
Flood Control Assistance Account—	
State Appropriation	(\$2,019,000)
	<u>\$2,159,000</u>
State Emergency Water Projects Revolving Account—	
State Appropriation	(\$552,000)
	<u>\$725,000</u>
Waste Reduction/Recycling/Litter Control Account—	
State Appropriation	\$13,714,000
State Drought Preparedness Account—State	
Appropriation	(\$1,708,000)
	<u>\$1,858,000</u>
State and Local Improvements Revolving Account	
(Water Supply Facilities)—State	
Appropriation	\$593,000
Site Closure Account—State Appropriation	\$629,000
Water Quality Account—State Appropriation	\$25,252,000
Wood Stove Education and Enforcement Account—	
State Appropriation	\$356,000
Worker and Community Right-to-Know Account—	
State Appropriation	\$3,348,000
State Toxics Control Account—State	
Appropriation	(\$59,268,000)
	<u>\$59,427,000</u>
State Toxics Control Account—Private/Local	
Appropriation	\$353,000
Local Toxics Control Account—State	
Appropriation	\$4,878,000
Water Quality Permit Account—State	
Appropriation	(\$25,205,000)

	<u>\$25,741,000</u>
Underground Storage Tank Account—State	
Appropriation	\$2,710,000
Environmental Excellence Account—State	
Appropriation	\$504,000
Biosolids Permit Account—State Appropriation	\$784,000
Hazardous Waste Assistance Account—State	
Appropriation	((\$4,185,000))
	<u>\$4,535,000</u>
Air Pollution Control Account—State	
Appropriation	\$1,654,000
Oil Spill Prevention Account—State	
Appropriation	((\$7,745,000))
	<u>\$7,889,000</u>
Air Operating Permit Account—State	
Appropriation	\$3,693,000
Freshwater Aquatic Weeds Account—State	
Appropriation	\$2,503,000
Oil Spill Response Account—State	
Appropriation	\$7,078,000
Metals Mining Account—State Appropriation	\$19,000
Water Pollution Control Revolving Account—	
State Appropriation	((\$380,000))
	<u>\$387,000</u>
Water Pollution Control Revolving Account—	
Federal Appropriation	((\$1,867,000))
	<u>\$1,901,000</u>
TOTAL APPROPRIATION	((\$301,337,000))
	<u>\$308,042,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,757,696 of the general fund—state appropriation for fiscal year 2004, \$2,757,696 of the general fund—state appropriation for fiscal year 2005, \$394,000 of the general fund—federal appropriation, \$2,581,000 of the state toxics account—state appropriation, \$217,830 of the water quality account—state appropriation, \$322,976 of the state drought preparedness account—state appropriation, \$3,748,220 of the water quality permit account—state appropriation, and \$704,942 of the oil spill prevention account are provided solely for the implementation of the Puget Sound work plan and agency action items DOE-01, DOE-02, DOE-04, DOE-05, DOE-06, DOE-07, DOE-08, and DOE-09.

(2) \$4,059,000 of the state toxics control account appropriation is provided solely for methamphetamine lab clean-up activities.

(3) \$170,000 of the oil spill prevention account appropriation is provided solely for implementation of the Puget Sound work plan action item UW-02 through a contract with the University of Washington's sea grant program to develop an educational program targeted to small spills from commercial fishing vessels, ferries, cruise ships, ports, and marinas.

(4) (~~(\$1,000,000)~~) \$730,000 of the general fund—state appropriation for fiscal year 2004 and (~~(\$1,000,000)~~) \$1,270,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for shoreline grants to local governments to implement Substitute Senate Bill No. 6012 (shoreline management), chapter 262, Laws of 2003.

(5) Fees approved by the department of ecology in the 2003-05 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055.

(6) \$200,000 of the water quality account—state appropriation is provided solely for the department to contract with Washington State University cooperative extension program to provide statewide coordination and support for coordinated resource management.

(7) \$100,000 of the state toxics control account—state appropriation is provided solely to implement Engrossed Substitute House Bill No. 1002 (mercury), chapter 260, Laws of 2003. If the bill is not enacted by June 30, 2003, the amount provided in this subsection shall lapse.

(8) The department of ecology is authorized to take one of the following actions related to the grant awarded in the 2001-03 biennium to Lincoln county for the Negro Creek flood control project, flood control assistance account program grant G0200049: (a) Carry forward to the 2003-05 biennium any unspent portion of the grant, or (b) extend the time of performance for the grant contract to the end of the 2003-2005 biennium.

(9) \$144,000 of the oil spill prevention account—state appropriation is provided solely to implement the provisions of Substitute Senate Bill No. 6641 (oil spills). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(10) \$536,000 of the water quality permit account—state appropriation is provided solely to implement the provisions of Engrossed Substitute Senate Bill No. 6415 (storm water discharge permits). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(11) \$218,000 of the general fund—state appropriation for fiscal year 2005 is provided solely to implement the provisions of Engrossed Second Substitute Senate Bill No. 5957 (water quality data). If the bill is not enacted by June 30, 2004, the amounts provided in this subsection shall lapse.

(12) \$100,000 of the general fund—state appropriation for fiscal year 2005 is provided solely to support the initial phase of the federal United States Geological Survey study of the Spokane Valley-Rathdrum Prairie aquifer.

(13) \$65,000 of the general fund—state appropriation for fiscal year 2005 is provided solely to implement Engrossed Substitute House Bill No. 2488 (electronic products). If the bill is not enacted by June 30, 2004, the amounts provided in this subsection shall lapse.

(14) \$1,043,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for (a) establishing instream flows by rule for main stem rivers and their key tributaries. In watersheds where planning is not being conducted pursuant to chapter 90.82 RCW, the department shall follow the procedures and applicable requirements of chapters 90.22 and 90.54 RCW, and shall create a process of public involvement similar to that of a watershed planning unit under the provisions of chapter 90.82 RCW, in order to ensure that citizens are informed and afforded the opportunity to participate in the development of instream flow recommendations in collaboration with the

department; (b) working with counties that have existing geographic information systems to map existing water rights and document current ownership and evaluating alternative administrative systems for determining existing water rights; and (c) assigning one water master to a basin that has been adjudicated.

(15) \$2,500,000 of the general fund—state appropriation for fiscal year 2004 is provided solely for a one-time payment to settle all claims in a suit against the state in the *Envirotest v. Department of Ecology*, Thurston Co. Sup. Ct. Case No. 02-2-00255-0.

(16) \$350,000 of the hazardous waste assistance account appropriation is provided solely for rulemaking to require closure plans, liability coverage, and financial assurances for hazardous waste management facilities.

(17) \$300,000 of the general fund—state appropriation for fiscal year 2005 is provided solely to assist in watershed planning efforts. Of this amount, \$200,000 is provided solely for mediation efforts with the Lummi nation to pursue resolution of federal and tribal rights to water in Washington state consistent with comprehensive state water resources planning under chapter 90.54 RCW and \$100,000 is provided solely for coordination and staff support for the Nisqually river council watershed initiative program.

(18)(a) \$166,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for rulemaking and development of chemical action plans for persistent bioaccumulative toxins. Of this amount:

(i) \$83,000 is provided solely for the development of a chemical action plan for the chemical compounds known as PBDE (polybrominated diphenyl ethers); and

(ii) \$83,000 is provided solely for rulemaking to develop specific criteria by which chemicals may be included on a persistent bioaccumulative toxins list, develop a specific list of persistent bioaccumulative toxins and establish criteria for selecting chemicals for chemical action plans. The department shall develop the criteria and list consistent with the administrative procedure act provided under chapter 34.05 RCW and shall not adopt the rule prior to the adjournment of the 2005 legislative session. The department shall make recommendations to the legislature by December 31, 2004, regarding future funding alternatives to address persistent bioaccumulative toxins.

(b) \$159,000 of the state toxics control account appropriation is provided solely to implement the mercury chemical action plan. Of this amount: (i) \$84,000 is provided for development of a memorandum of understanding with the Washington state hospital association and the auto recyclers of Washington to ensure the safe removal and disposal of products containing mercury; and (ii) \$75,000 is provided for ongoing fluorescent lamp recycling.

Any pesticide with a valid registration on or after the effective date of this act issued by the environmental protection agency under the federal insecticide, fungicide and rodenticide act, 7 U.S.C. 136 et seq., or any fertilizer regulated under the Washington fertilizer act, chapter 15.54 RCW, shall not be included in a persistent bioaccumulative toxin rulemaking process, list, or chemical action plan undertaken by the department of ecology.

(19) \$120,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for a wetland mitigation banking pilot project. The department shall work with representatives from involved state agencies, the army corps of engineers, business, mitigation banking organizations, and

environmental organizations to develop and implement a wetland banking rule. The department shall report to the appropriate committees of the legislature on the progress of the rule by December 2004.

(20) Within the amounts appropriated in this section the department shall convene and provide staff support for a water resources administration and funding task force. The task force shall develop proposals for and recommend several options for funding the state's water resource programs, including both operating programs and capital costs for water program implementation. The task force must report its findings and recommendations to the governor and the appropriate committees of the legislature by December 15, 2004. The task force shall include representatives of each of the following interests, selected by the associations representing those interests:

- (i) One representative from each of the following interests: Agriculture, industry, environmental, fisheries, water utilities, and power utilities;
- (ii) One representative of cities and one representative of counties;
- (iii) Two representatives of Indian tribes, one from eastern Washington and one from western Washington;
- (iv) Three representatives of the executive branch of state government; and
- (v) The department of ecology shall invite a representative of the United States bureau of reclamation to participate as a member of the task force.

Sec. 302. 2003 1st sp.s. c 25 s 303 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

General Fund—State Appropriation (FY 2004)	(\$29,986,000)
	\$30,015,000
General Fund—State Appropriation (FY 2005)	(\$29,976,000)
	\$30,034,000
General Fund—Federal Appropriation	\$2,666,000
General Fund—Private/Local Appropriation	\$63,000
Winter Recreation Program Account—State Appropriation	\$1,079,000
Off Road Vehicle Account—State Appropriation	\$285,000
Snowmobile Account—State Appropriation	\$4,790,000
Aquatic Lands Enhancement Account—State Appropriation	\$332,000
Public Safety and Education Account—State Appropriation	\$47,000
<u>Parks Renewal and Stewardship Account— Private/Local Appropriation</u>	<u>\$300,000</u>
Parks Renewal and Stewardship Account— State Appropriation	(\$33,769,000)
	\$34,431,000
TOTAL APPROPRIATION	(\$102,993,000)
	\$104,042,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Fees approved by the state parks and recreation commission in the 2003-05 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055.

(2) \$79,000 of the general fund—state appropriation for fiscal year 2004, \$79,000 of the general fund—state appropriation for fiscal year 2005, and \$8,000 of the winter recreation program account—state appropriation are provided solely for a grant for the operation of the Northwest avalanche center.

(3) \$191,000 of the aquatic lands enhancement account appropriation is provided solely for the implementation of the Puget Sound work plan and agency action item P+RC-02.

(4) At each state park at which a parking fee is collected, the state parks and recreation commission shall provide notice that the revenue collected from the parking fee shall be used to fund expenditures to maintain and improve the state park system.

(5) \$72,000 of the parks renewal and stewardship account—state appropriation is provided solely for one-time and ongoing computer system improvements and technical support.

Sec. 303. 2003 1st sp.s. c 25 s 304 (uncodified) is amended to read as follows:

FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

General Fund—State Appropriation (FY 2004)	\$1,246,000
General Fund—State Appropriation (FY 2005)	(\$1,256,000)
	<u>\$1,381,000</u>
General Fund—Federal Appropriation	\$17,983,000
<u>General Fund—Private/Local Appropriation</u>	<u>\$125,000</u>
Firearms Range Account—State Appropriation	\$22,000
Recreation Resources Account—State Appropriation	\$2,608,000
NOVA Program Account—State Appropriation	\$691,000
Water Quality Account—State Appropriation	\$200,000
Aquatic Lands Enhancement Account—State Appropriation	\$254,000
TOTAL APPROPRIATION	(\$24,260,000)
	<u>\$24,510,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$16,000,000 of the general fund—federal appropriation is provided solely for implementation of the forest and fish agreement rules. These funds will be passed through to the department of natural resources and the department of fish and wildlife.

(2) \$41,000 of the general fund—state appropriation for fiscal year 2004 and \$41,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the operation and maintenance of the natural resources data portal.

(3) \$812,000 of the general fund—state appropriation for fiscal year 2004, \$813,000 of the general fund—state appropriation for fiscal year 2005, and \$1,625,000 of the general fund—federal appropriation are provided to the salmon recovery funding board for distribution to lead entities. The board may

establish policies to require coordination of funding requests from lead entities and regional recovery boards to ensure that recovery efforts are synchronized. At the discretion of the board, funding shall be concentrated in watersheds within the highest priority salmon recovery regions as defined by the statewide strategy to recover salmon. The board shall also coordinate funding decisions with the northwest power planning council to ensure maximum efficiency and investment return.

(4) \$234,000 of the general fund—state appropriation for fiscal year 2004 and \$234,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement priority recommendations developed by the monitoring oversight committee as directed by RCW 77.85.210. Within these funds, activity shall be directed to improve monitoring oversight within watersheds, enhance data coordination and access among recovery partners, and produce a state watershed health report card.

(5) \$125,000 of the general fund—state appropriation for fiscal year 2005 and \$125,000 of the general fund—private/local appropriation are provided solely for implementation of a statewide biodiversity conservation strategy.

Sec. 304. 2003 1st sp.s. c 25 s 305 (uncodified) is amended to read as follows:

FOR THE ENVIRONMENTAL HEARINGS OFFICE

General Fund—State Appropriation (FY 2004)	((\$923,000))
	\$934,000
General Fund—State Appropriation (FY 2005)	((\$960,000))
	\$998,000
TOTAL APPROPRIATION	((\$1,883,000))
	<u>\$1,932,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$30,000 of the general fund—state appropriation for fiscal year 2004 and \$20,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement Engrossed Substitute Senate Bill No. 5776 (review of permit decisions), chapter 393, Laws of 2003.

Sec. 305. 2003 1st sp.s. c 25 s 306 (uncodified) is amended to read as follows:

FOR THE CONSERVATION COMMISSION

General Fund—State Appropriation (FY 2004)	\$2,234,000
General Fund—State Appropriation (FY 2005)	\$2,245,000
Water Quality Account—State Appropriation	((\$2,162,000))
	<u>\$2,412,000</u>
TOTAL APPROPRIATION	((\$6,641,000))
	<u>\$6,891,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$247,000 of the general fund—state appropriation for fiscal year 2004 and \$247,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the implementation of the Puget Sound work plan and agency action item CC-01.

(2) \$118,000 of the general fund—state appropriation for fiscal year 2004 and \$121,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement Engrossed Second Substitute House Bill No. 1418 (drainage infrastructure), chapter 391, Laws of 2003.

(3) \$250,000 of the water quality account—state appropriation is provided solely for grants to conservation districts. Grants shall provide for education, outreach, and technical assistance programs to assist owners and operators of concentrated animal feeding operations with compliance issues related to federal concentrated animal feeding operations requirements and the department of agriculture’s livestock nutrient management program.

Sec. 306. 2003 1st sp.s. c 25 s 307 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

General Fund—State Appropriation (FY 2004)	(\$41,453,000)
	<u>\$41,600,000</u>
General Fund—State Appropriation (FY 2005)	(\$40,179,000)
	<u>\$40,584,000</u>
General Fund—Federal Appropriation	(\$31,632,000)
	<u>\$40,316,000</u>
General Fund—Private/Local Appropriation	(\$24,300,000)
	<u>\$29,420,000</u>
Off Road Vehicle Account—State	
Appropriation.	\$501,000
Aquatic Lands Enhancement Account—State	
Appropriation.	\$5,620,000
Public Safety and Education Account—State	
Appropriation.	\$562,000
Recreational Fisheries Enhancement Account—	
State Appropriation	(\$3,392,000)
	<u>\$3,467,000</u>
Warm Water Game Fish Account—State	
Appropriation.	\$2,568,000
Eastern Washington Pheasant Enhancement Account—	
State Appropriation	\$750,000
Wildlife Account—State Appropriation	(\$57,138,000)
	<u>\$58,922,000</u>
Wildlife Account—Federal Appropriation	(\$38,216,000)
	<u>\$29,532,000</u>
Wildlife Account—Private/Local	
Appropriation.	(\$15,158,000)
	<u>\$10,038,000</u>
((Game)) Special Wildlife Account—State	
Appropriation.	(\$1,949,000)
	<u>\$2,068,000</u>
((Game)) Special Wildlife Account—Federal	
Appropriation.	(\$9,598,000)
	<u>\$8,720,000</u>
((Game)) Special Wildlife Account—Private/Local	

Appropriation.	((<u>\$350,000</u>))
	<u>\$450,000</u>
Environmental Excellence Account—State	
Appropriation.	\$15,000
Regional Fisheries Salmonid Recovery Account—	
Federal Appropriation	\$1,750,000
Oil Spill Prevention Account—State	
Appropriation.	\$981,000
Oyster Reserve Land Account—State	
Appropriation.	((<u>\$137,000</u>))
	<u>\$411,000</u>
TOTAL APPROPRIATION.	((<u>\$276,249,000</u>))
	<u>\$278,275,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,355,714 of the general fund—state appropriation for fiscal year 2004, \$1,355,713 of the general fund—state appropriation for fiscal year 2005, and \$402,000 of the wildlife account—state appropriation are provided solely for the implementation of the Puget Sound work plan and agency action items DFW-01 through DFW-06.

(2) \$225,000 of the general fund—state appropriation for fiscal year 2004, \$225,000 of the general fund—state appropriation for fiscal year 2005, and \$550,000 of the wildlife account—state appropriation are provided solely for the implementation of hatchery reform recommendations defined by the hatchery scientific review group.

(3) ((~~\$850,000~~)) \$1,016,000 of the wildlife account—state appropriation is provided solely for stewardship and maintenance needs on agency-owned lands and water access sites.

(4) \$900,000 of the wildlife fund—state appropriation is provided solely for wetland restoration activities for migratory waterfowl by providing landowner incentives to create or maintain waterfowl habitat and management activities.

(5) \$2,000,000 of the aquatic lands enhancement account appropriation is provided for cooperative volunteer projects.

(6) The department shall support the activities of the aquatic nuisance species coordination committee to foster state, federal, tribal, and private cooperation on aquatic nuisance species issues. The committee shall strive to prevent the introduction of nonnative aquatic species and to minimize the spread of species that are introduced.

(7) The department shall develop and implement an activity-based costing system. The system shall be operational no later than January 1, 2004.

(8) \$400,000 of the wildlife account—state appropriation is provided solely to implement the department's information systems strategic plan to include continued implementation of a personal computer leasing plan, an upgrade of computer back-up systems, systems architecture assessment, and network security analysis.

(9) Within funds provided, the department shall make available enforcement and biological staff to respond and take appropriate action to ensure public safety in response to public complaints regarding bear and cougar.

(10) \$43,000 of the general fund—state appropriation for fiscal year 2004 and \$42,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for staffing and operation of the Tennant Lake interpretive center.

(11) \$80,000 of the general fund—state appropriation for fiscal year 2004 and \$77,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement Second Substitute House Bill No. 1095 (small forest landowners), chapter 311, Laws of 2003.

(12) \$25,000 of the general fund—state appropriation for fiscal year 2004 and \$25,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement Engrossed Second Substitute House Bill No. 1338 (municipal water rights). If the bill is not enacted by June 30, 2003, the amounts provided in this subsection shall lapse.

(13) \$110,000 of the general fund—state appropriation for fiscal year 2004 and \$110,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for economic adjustment assistance to fishermen pursuant to the 1999 Pacific salmon treaty agreement.

(14) The department shall emphasize enforcement of laws related to protection of fish habitat and the illegal harvest of salmon and steelhead. Within the amount provided for the agency, the department shall provide support to the department of health to enforce state shellfish harvest laws.

(15) \$75,000 of the recreational fisheries enhancement account and \$75,000 of the state wildlife account—state appropriation are provided solely to implement additional selective recreational fisheries to include one additional fishery each in eastern and western Washington. The department shall determine the eastern Washington fishery, and the western Washington fishery shall be for Lake Washington sockeye.

(16) \$16,000 of the wildlife account—state appropriation is provided solely for implementation of Substitute House Bill No. 2621 (razor clam license). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(17) \$417,000 of the wildlife account—state appropriation is provided solely to implement Substitute House Bill No. 2431 (Dungeness crab card). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(18) \$112,000 of the general fund—state appropriation for fiscal year 2005 is provided solely to buy back purse seine fishing licenses.

(19) \$180,000 of the wildlife account—state appropriation is provided solely to test deer and elk for chronic wasting disease and to document the extent of swan lead poisoning. Of this amount, \$65,000 is provided solely to document the extent of swan lead poisoning and to begin environmental cleanup.

(20) \$122,000 of the wildlife account—state appropriation is provided solely to reimburse the department of natural resources for fire suppression costs incurred on department of fish and wildlife lands.

(21) \$150,000 of the general fund—state appropriation for fiscal year 2005 and \$150,000 of the wildlife account—state appropriation are provided solely to complete phase II of the contract management system (CAPS). The CAPS system phase II shall be operational no later than June 30, 2005.

(22) From within existing funding, the department shall provide a report to the appropriate committees of the legislature identifying options for reducing future allocations for the harvest of salmon in the event that a group's actual catch exceeds a current allocation. The report shall identify any statutory changes that would be required to implement such an accountability system.

(23) \$50,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for lease payments for the Vancouver hatchery staff residence and for the development of plans for an educational facility in cooperation with the Columbia Springs environmental education center.

Sec. 307. 2003 1st sp.s. c 25 s 308 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

General Fund—State Appropriation (FY 2004)	(((\$30,307,000))
	<u>\$54,189,000</u>
General Fund—State Appropriation (FY 2005)	(((\$34,233,000))
	<u>\$36,554,000</u>
General Fund—Federal Appropriation	(((\$3,809,000))
	<u>\$5,116,000</u>
General Fund—Private/Local Appropriation	\$2,482,000
Forest Development Account—State Appropriation	(((\$52,060,000))
	<u>\$52,075,000</u>
Off Road Vehicle Account—State Appropriation	(((\$4,028,000))
	<u>\$4,029,000</u>
Surveys and Maps Account—State Appropriation	(((\$2,760,000))
	<u>\$2,761,000</u>
Aquatic Lands Enhancement Account—State Appropriation	(((\$6,884,000))
	<u>\$8,925,000</u>
Resources Management Cost Account—State Appropriation	(((\$70,391,000))
	<u>\$70,418,000</u>
Surface Mining Reclamation Account—State Appropriation	\$2,293,000
Disaster Response Account—State Appropriation	\$7,200,000
<u>State Toxic Control Account—State Appropriation</u>	<u>\$750,000</u>
Water Quality Account—State Appropriation	\$2,479,000
Aquatic Land Dredged Material Disposal Site Account—State Appropriation	\$1,311,000
Natural Resource Conservation Areas Stewardship Account Appropriation	\$83,000
Air Pollution Control Account—State Appropriation	\$526,000
Agricultural College Trust Management Account Appropriation	\$1,868,000
Derelict Vessel Removal Account—State	

Appropriation	\$1,130,000
TOTAL APPROPRIATION	(\$223,844,000)
	<u>\$254,189,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$18,000 of the general fund—state appropriation for fiscal year 2004, \$18,000 of the general fund—state appropriation for fiscal year 2005, and \$1,006,950 of the aquatic lands enhancement account appropriation are provided solely for the implementation of the Puget Sound work plan and agency action items DNR-01, DNR-02, and DNR-04.

(2) \$908,000 of the general fund—state appropriation for fiscal year 2004 and \$910,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for deposit into the agricultural college trust management account and are provided solely to manage approximately 70,700 acres of Washington State University's agricultural college trust lands.

(3) ~~(\$1,158,000)~~ \$24,674,000 of the general fund—state appropriation for fiscal year 2004, \$8,358,000 of the general fund—state appropriation for fiscal year 2005, and \$7,200,000 of the disaster response account—state appropriation are provided solely for emergency fire suppression. These funds shall not be allocated to cover any portion of agency indirect and administrative expenses. The legislature finds that general fund and disaster response account support for emergency fire suppression is a significant and direct subsidy of the costs to administer and manage various trust lands. It would be an unintended additional subsidy if a portion of the general fund and disaster response account amounts provided in this subsection were used to fund agency indirect and administrative expenses. To avoid this unintended additional subsidy, agency indirect and administrative costs shall be allocated among the agency's remaining accounts and appropriations.

(4) \$582,000 of the aquatic lands enhancement account appropriation is provided solely for spartina control.

(5) Fees approved by the board of natural resources in the 2003-05 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055.

(6) The department shall prepare a report of actual and planned expenditures by task and activity from all fund sources for all aspects of the forest and fish program for the 2001-03 and 2003-05 biennia. The report shall be submitted to the director of financial management and the legislative fiscal committees by August 31, 2003.

(7) Authority to expend funding for acquisition of technology equipment and software associated with development of a new revenue management system is conditioned on compliance with section 902 of this act.

(8) \$1,000,000 of the aquatic lands enhancement account—state appropriation is provided solely for the department to meet its obligations with the U.S. environmental protection agency for the clean-up of Commencement Bay.

(9) ~~((For the 2003-05 fiscal biennium, the department has revised the methodology by which administrative costs of the department are allocated among the state general fund and the various dedicated funds and accounts from~~

~~which the department receives appropriations. The legislature recognizes that the revised methodology represents a fair and equitable allocation of costs under state law and accounting rules. The legislature further finds that retroactive application of the revised methodology is neither practical nor desirable.~~

~~((40)))~~ The department of natural resources shall provide a report to the appropriate committees of the legislature, the office of financial management, and the board of natural resources concerning the costs and effectiveness of the contract harvesting program as authorized by Second Substitute Senate Bill No. 5074 (contract harvesting), chapter 313, Laws of 2003. The report shall be submitted by December 31, 2006, and shall include the following information:

(a) Number of sales conducted through contract harvesting;

(b) For each sale conducted, the (i) number of board feet sold; (ii) stumpage and pond prices; (iii) difference in revenues received compared to revenues that would have accrued through noncontract harvest sales, and the distribution of revenues to the contract harvesting revolving account, and to applicable management and trust accounts; and (iv) total cost to conduct the contract harvest, by fund and object of expenditure; and

(c) Other costs and benefits attributable to contract harvesting.

~~((41)))~~ (10) \$208,000 of the general fund—state appropriation of fiscal year 2004 and \$70,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement Second Substitute House Bill No. 1095 (small forest landowners), chapter 311, Laws of 2003.

~~((42)))~~ (11) The department of natural resources shall not close Sahara Creek facility, campground, or trailhead. The appropriations in this section are deemed sufficient to provide service for these recreational opportunities.

~~((43)))~~ (12) \$4,000 of the general fund—state appropriation for fiscal year 2004 and \$4,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to compensate the forest board trust for a portion of the lease to the Crescent television improvement district consistent with RCW 79.12.055.

~~((44)))~~ (13) \$2,700,000 of the general fund—state appropriation for fiscal year 2004 is provided solely to the department of natural resources to acquire approximately 232 acres of land and timber in Klickitat county from the SDS lumber company. Expenditure of the moneys provided in this subsection shall not be made until the SDS lumber company accepts the land and timber acquisition as full and complete settlement of the current litigation brought by the SDS lumber company against the state and the litigation is dismissed, with prejudice. The land and timber acquired with the funding in this subsection shall be managed for the benefit of the common schools. By June 30, 2004, if the department has not recovered through trust asset management the state's capital investment from the land acquisition provided in this subsection, the department shall seek reimbursement from the federal government.

~~((45)))~~ (14) \$265,000 of the aquatic lands enhancement account appropriation is provided solely for developing a pilot project to study the feasibility of geoduck aquaculture on both intertidal and subtidal lands in the state of Washington.

(15) \$60,000 of the general fund—state appropriation for fiscal year 2004 is provided solely for habitat restoration work in the Loomis natural resource area.

(16) \$200,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for providing public access to camp sites and trails maintained

by the department. This additional funding, along with existing funding from the off road vehicle account is intended to fully fund current access to camp sites and trails. If additional funding is required to avoid closures to camp sites and trails during the 2003-05 biennium, the department shall reduce expenditures for agency administration by five percent and redeploy those general fund resources to the recreation program prior to closing any camp sites or trails.

(17) \$40,000 of the aquatic lands enhancement account appropriation is provided solely for the department to (a) calculate the rent for DNR-leased marinas based on a percentage of a marina's income and (b) recommend an appropriate formula to the 2005 legislature.

(18)(a) \$2,000,000 of the general fund—state appropriation for fiscal year 2005, \$750,000 of the state toxics control account—state appropriation, and \$2,000,000 of the aquatic lands enhancement account—state appropriation are provided solely for the purpose of settling *Pacific Sound Resources v. Burlington Northern Santa Fe Railroad, et al.* In the event: (i) A final settlement agreement is not signed by the port of Seattle, Pacific Sound Resources, and the department of natural resources by March 25, 2004; or (ii) the U.S. environmental protection agency, or the department of justice if necessary, fail to settle with the state and the department and provide a covenant not to sue and contribution protection with no additional consideration required, then \$550,000 of the general fund—state appropriation for fiscal year 2005 shall be available to use to fund the existing PSR litigation and the remainder of the amounts provided in this subsection (a) shall lapse.

(b) \$300,000 of the general fund—state appropriation for fiscal year 2004 is provided solely for legal defense costs in *Pacific Sound Resources v. Burlington Northern Santa Fe Railroad et al.*

Sec. 308. 2003 1st sp.s. c 25 s 309 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF AGRICULTURE

General Fund—State Appropriation (FY 2004)	(\$7,444,000))
	\$7,636,000
General Fund—State Appropriation (FY 2005)	(\$7,444,000))
	\$10,941,000
General Fund—Federal Appropriation	\$10,068,000
General fund—Private/Local Appropriation	\$1,110,000
Aquatic Lands Enhancement Account—State Appropriation	(\$1,942,000))
	\$2,027,000
Water Quality Account—State Appropriation	\$692,000
State Toxics Control Account—State Appropriation	(\$2,580,000))
	\$2,780,000
Water Quality Permit Account—State Appropriation	\$165,000
TOTAL APPROPRIATION	(\$31,245,000))
	\$35,419,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$37,000 of the general fund—state appropriation for fiscal year 2004 and \$37,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for implementation of the Puget Sound work plan and agency action item WSDA-01.

(2) Fees and assessments approved by the department in the 2003-05 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055.

(3) \$165,000 of the water quality permit account—state appropriation and \$692,000 of the water quality account—state appropriation are provided solely to implement Engrossed Substitute Senate Bill No. 5889 (animal feeding operations), chapter 325, Laws of 2003.

(4) \$53,000 of the general fund—state appropriation for fiscal year 2004 and \$15,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement Engrossed Substitute House Bill No. 1754 (chickens), chapter 397, Laws of 2003.

(5) \$42,000 of the general fund—state appropriation for fiscal year 2004 and \$287,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for animal identification, food safety, and commercial feed inspection programs.

(6) \$150,000 of the general fund—state appropriation for fiscal year 2004 is provided solely for response costs to the discovery of bovine spongiform encephalopathy in a Washington dairy cow.

(7) \$630,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the "from the heart of Washington" campaign, southeast Asia/China trade representatives, domestic marketing/economic development, food and agriculture industry security, and for the small farm and direct marketing program.

(8) \$85,000 of the aquatic lands enhancement account appropriation is provided solely for spartina eradication efforts in Willapa Bay and Grays Harbor.

(9) \$330,000 of the general fund—state appropriation for fiscal year 2005 is provided solely to contract with Washington State University for research and development activities related to asparagus harvesting and automation technology.

(10) \$1,500,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the purchase of agricultural products packing equipment. The department shall negotiate an appropriate agreement with the agricultural industry for the use of the equipment.

**PART IV
TRANSPORTATION**

Sec. 401. 2003 1st sp.s. c 25 s 401 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING

General Fund—State Appropriation (FY 2004)	(\$4,986,000)
	<u>\$5,141,000</u>
General Fund—State Appropriation (FY 2005)	(\$4,988,000)
	<u>\$5,225,000</u>
Architects' License Account—State	

Appropriation.....	(\$696,000))	
		<u>\$706,000</u>
Cemetery Account—State Appropriation.....	(\$235,000))	
		<u>\$249,000</u>
Professional Engineers' Account—State Appropriation.....	(\$3,025,000))	
		<u>\$2,938,000</u>
Real Estate Commission Account—State Appropriation.....	(\$7,111,000))	
		<u>\$7,048,000</u>
Master License Account—State Appropriation.....	(\$9,110,000))	
		<u>\$8,920,000</u>
Uniform Commercial Code Account—State Appropriation.....	(\$2,987,000))	
		<u>\$2,837,000</u>
Real Estate Education Account—State Appropriation.....	(\$277,000))	
		<u>\$275,000</u>
Real Estate Appraisers Commission Account—State Appropriation.....	(\$927,000))	
		<u>\$946,000</u>
Geologist's Account—State Appropriation.....	(\$7,000))	
		<u>\$21,000</u>
Funeral Directors and Embalmers Account—State Appropriation.....	(\$521,000))	
		<u>\$532,000</u>
Washington Real Estate Research Account—State Appropriation.....	(\$308,000))	
		<u>\$302,000</u>
Data Processing Revolving Account—State Appropriation.....	\$29,000	
<u>Derelict Vessel Removal Account—State Appropriation.....</u>		<u>\$31,000</u>
TOTAL APPROPRIATION.....	(\$35,207,000))	<u>\$35,200,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) In accordance with RCW 43.24.086, it is the policy of the state of Washington that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation, or business. For each licensing program covered by RCW 43.24.086, the department shall set fees at levels sufficient to fully cover the cost of administering the licensing program, including any costs associated with policy enhancements funded in the 2003-05 fiscal biennium. Pursuant to RCW 43.135.055, during the 2003-05 fiscal biennium, the department may increase fees in excess of the fiscal growth factor if the increases are necessary to fully fund the costs of the licensing programs.

(2) \$56,000 of the general fund—state appropriation for fiscal year 2004 and \$262,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement Substitute Senate Bill No. 6341 (cosmetologists). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

Sec. 402. 2003 1st sp.s. c 25 s 402 (uncodified) is amended to read as follows:

FOR THE STATE PATROL

General Fund—State Appropriation (FY 2004)	\$20,005,000
General Fund—State Appropriation (FY 2005)	\$18,855,000
General Fund—Federal Appropriation	\$4,240,000
General Fund—Private/Local Appropriation	\$378,000
Death Investigations Account—State Appropriation	\$4,489,000
Public Safety and Education Account—State Appropriation	(\$20,852,000)
	<u>\$21,969,000</u>
Enhanced 911 Account—State Appropriation	\$612,000
County Criminal Justice Assistance Account—State Appropriation	\$2,649,000
Municipal Criminal Justice Assistance Account— State Appropriation	\$1,087,000
Fire Service Trust Account—State Appropriation	\$125,000
Fire Service Training Account—State Appropriation	\$7,374,000
State Toxics Control Account—State Appropriation	\$436,000
Violence Reduction and Drug Enforcement Account— State Appropriation	\$286,000
Fingerprint Identification Account—State Appropriation	(\$4,405,000)
	<u>\$5,393,000</u>
TOTAL APPROPRIATION	(\$85,793,000)
	<u>\$87,898,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$750,000 of the fire service training account—state appropriation is provided solely for the implementation of Senate Bill No. 5176 (fire fighting training). If the bill is not enacted by June 30, 2003, the amount provided in this subsection shall lapse.

(2) \$200,000 of the fire service training account—state appropriation is provided solely for two FTE's in the office of state fire marshal to exclusively review K-12 construction documents for fire and life safety in accordance with the state building code. It is the intent of this appropriation to provide these services only to those districts that are located in counties without qualified review capabilities.

(3) \$376,000 of the public safety and education account—state appropriation is provided solely for additional DNA testing kits.

(4) \$276,000 of the fingerprint identification account—state appropriation is provided solely for the implementation of Substitute House Bill No. 2532 (modifying commercial driver's license provisions). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

**PART V
EDUCATION**

Sec. 501. 2003 1st sp.s. c 25 s 501 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

(1) STATE AGENCY OPERATIONS

General Fund—State Appropriation (FY 2004)	(\$11,772,000)
	\$11,615,000
General Fund—State Appropriation (FY 2005)	(\$11,761,000)
	\$11,846,000
General Fund—Federal Appropriation	(\$15,921,000)
	\$26,968,000
TOTAL APPROPRIATION	(\$39,454,000)
	\$50,429,000

The appropriations in this section are subject to the following conditions and limitations:

(a) \$10,771,000 of the general fund—state appropriation for fiscal year 2004 and \$10,768,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the operation and expenses of the office of the superintendent of public instruction. Within the amounts provided in this subsection, the superintendent shall recognize the extraordinary accomplishments of four students who have demonstrated a strong understanding of the civics essential learning requirements to receive the Daniel J. Evans civic education award. The students selected for the award must demonstrate understanding through completion of at least one of the classroom-based civics assessment models developed by the superintendent of public instruction, and through leadership in the civic life of their communities. The superintendent shall select two students from eastern Washington and two students from western Washington to receive the award, and shall notify the governor and legislature of the names of the recipients.

(b) \$428,000 of the general fund—state appropriation for fiscal year 2004 and \$428,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

(c) \$416,000 of the general fund—state appropriation for fiscal year 2004 and ~~(\$416,000)~~ \$476,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the operation and expenses of the Washington professional educator standards board. Within the amounts provided, the Washington professional educator standards board (WPESB) shall submit a report regarding specific implementation strategies to strengthen mathematics

initiatives by improving teacher knowledge and skill development including: (i) Teacher preparation program approval standard changes; (ii) teacher certification requirement changes and the development of new expertise credentials; (iii) state-established standards to guide the approval of professional development providers and offerings related to mathematics; and (iv) other related recommendations. The WPESB shall base the recommendations on determinations of the status of teacher preparation and professional development opportunities and work with appropriate parties. The WPESB shall submit the report to the governor, superintendent of public instruction, state board of education, and the education and fiscal committees of the legislature by November 1, 2004.

(d) ~~(\$157,000 of the general fund—state appropriation for fiscal year 2004 and \$149,000)~~ \$130,000 of the general fund—state appropriation for fiscal year 2005 ~~(are)~~ is provided solely for the implementation of Second Engrossed Substitute Senate Bill No. 5012 or Second Substitute House Bill No. 2295 (charter schools). If ~~(the)~~ neither bill is ~~(not)~~ enacted by June 30, ~~(2003)~~ 2004, the amount~~(s)~~ provided in this subsection shall lapse.

(e) The department of social and health services, the office of the superintendent of public instruction, and the department of health should work together to identify opportunities for early intervention and prevention activities that can help prevent disease and reduce oral health issues among children. Disease prevention among infants at the age of one year and among children entering the K-12 education system provide cost-effective ways to avoid higher health spending later in life.

(f) \$44,000 of the general fund—state appropriation for fiscal year 2005 is provided solely to implement Substitute Senate Bill No. 6171 (complaints against school employees) or Second Substitute Senate Bill No. 5533 (disclosure of misconduct). If neither bill is enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(2) STATEWIDE PROGRAMS

General Fund—State Appropriation (FY 2004)	(\$8,966,000)
	<u>\$8,676,000</u>
General Fund—State Appropriation (FY 2005)	(\$9,345,000)
	<u>\$9,885,000</u>
General Fund—Federal Appropriation	(\$66,405,000)
	<u>\$61,656,000</u>
TOTAL APPROPRIATION	(\$84,716,000)
	<u>\$80,217,000</u>

The appropriations in this subsection are provided solely for the statewide programs specified in this subsection and are subject to the following conditions and limitations:

(a) HEALTH AND SAFETY

(i) A maximum of \$2,541,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$2,541,000 of the general fund—state appropriation for fiscal year 2005 are provided for a corps of nurses located at educational service districts, as determined by the superintendent of public instruction, to be dispatched to the most needy schools to provide direct care to students, health education, and training for school staff.

(ii) A maximum of \$96,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$96,000 of the general fund—state appropriation for fiscal year 2005 are provided for the school safety center in the office of the superintendent of public instruction subject to the following conditions and limitations:

(A) The safety center shall: Disseminate successful models of school safety plans and cooperative efforts; provide assistance to schools to establish a comprehensive safe school plan; select models of cooperative efforts that have been proven successful; act as an information dissemination and resource center when an incident occurs in a school district either in Washington or in another state; coordinate activities relating to school safety; review and approve manuals and curricula used for school safety models and training; and develop and maintain a school safety information web site.

(B) The superintendent of public instruction shall participate in a school safety center advisory committee that includes representatives of educators, classified staff, principals, superintendents, administrators, the American society for industrial security, the state criminal justice training commission, and others deemed appropriate and approved by the school safety center advisory committee. Members of the committee shall be chosen by the groups they represent. In addition, the Washington association of sheriffs and police chiefs shall appoint representatives of law enforcement to participate on the school safety center advisory committee. The advisory committee shall select a chair.

(C) The school safety center advisory committee shall develop a training program, using the best practices in school safety, for all school safety personnel.

(iii) A maximum of \$100,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$100,000 of the general fund—state appropriation for fiscal year 2005 are provided for a school safety training program provided by the criminal justice training commission subject to the following conditions and limitations:

(A) The criminal justice training commission with assistance of the school safety center advisory committee established in section 2(b)(iii) of this section shall develop manuals and curricula for a training program for all school safety personnel.

(B) The Washington state criminal justice training commission, in collaboration with the advisory committee, shall provide the school safety training for all school administrators and school safety personnel, including school safety personnel hired after the effective date of this section.

((v)) (iv) (~~(\$13,663,000)~~) \$12,917,000 of the general fund—federal appropriation is provided for safe and drug free schools and communities grants for drug and violence prevention activities and strategies.

((vi)) (v) A maximum of \$146,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$146,000 of the general fund—state appropriation for fiscal year 2005 are provided for a nonviolence and leadership training program provided by the institute for community leadership. The program shall provide the following:

(A) Statewide nonviolence leadership coaches training program for certification of educational employees and community members in nonviolence leadership workshops;

(B) Statewide leadership nonviolence student exchanges, training, and speaking opportunities for student workshop participants; and

(C) A request for proposal process, with up to 80 percent funding, for nonviolence leadership workshops serving at least 12 school districts with direct programming in 36 elementary, middle, and high schools throughout Washington state.

(b) TECHNOLOGY

A maximum of \$1,939,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$1,939,000 of the general fund—state appropriation for fiscal year 2005 are provided for K-20 telecommunications network technical support in the K-12 sector to prevent system failures and avoid interruptions in school utilization of the data processing and video-conferencing capabilities of the network. These funds may be used to purchase engineering and advanced technical support for the network.

(c) GRANTS AND ALLOCATIONS

(i) (~~(\$306,000)~~) \$16,000 of the fiscal year 2004 appropriation and \$689,000 of the fiscal year 2005 appropriation are provided solely for the special services pilot projects provided by Second Substitute House Bill No. 2012 (special services pilot program). The office of the superintendent of public instruction shall allocate these funds to the district or districts participating in the pilot program according to the provisions of section 2 subsection (4) of Second Substitute House Bill No. 2012, chapter 33, Laws of 2003.

(ii) A maximum of \$761,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of (~~(\$757,000)~~) \$1,097,000 of the general fund—state appropriation for fiscal year 2005 are provided for alternative certification routes. Funds may be used by the professional educator standards board to continue existing alternative-route grant programs and to create new alternative-route programs in regions of the state with service shortages.

(iii) A maximum of \$31,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$31,000 of the general fund—state appropriation for fiscal year 2005 are provided for operation of the Cispus environmental learning center.

(iv) A maximum of \$1,224,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$1,224,000 of the general fund—state appropriation for fiscal year 2005 are provided for in-service training and educational programs conducted by the Pacific Science Center.

(v) A maximum of \$1,079,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$1,079,000 of the general fund—state appropriation for fiscal year 2005 are provided for the Washington state leadership assistance for science education reform (LASER) regional partnership coordinated at the Pacific Science Center.

(vi) A maximum of \$97,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$97,000 of the general fund—state appropriation for fiscal year 2005 are provided to support vocational student leadership organizations.

(vii) A maximum of \$146,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$146,000 of the general fund—state appropriation for fiscal year 2005 are provided for the Washington civil liberties education program.

(viii) \$500,000 of the general fund—state appropriation for fiscal year 2004 and \$500,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the Washington state achievers scholarship program. The funds shall be used to support community involvement officers that recruit, train, and match community volunteer mentors with students selected as achievers scholars.

(ix) ~~(\$1,433,000)~~ \$25,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the school safety center advisory committee to identify instructional materials and resources for students, parents, and teachers that are designed to prevent the abduction of children.

(x) \$75,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for deposit in the natural science, wildlife, and environmental partnership account—state for the grant program established in chapter 22, Laws of 2003 (ESHB 1466).

(xi) \$100,000 of the general fund—state appropriation for fiscal year 2005 is provided solely as one-time funding for the Washington virtual classroom consortium administered by the Quillayute valley school district.

(xii) \$1,650,000 of the general fund—federal appropriation is provided for the advanced placement fee program to increase opportunities for low-income students and under-represented populations to participate in advanced placement courses and to increase the capacity of schools to provide advanced placement courses to students.

~~((x) \$9,510,000)~~ (xiii) \$9,953,000 of the general fund—federal appropriation is provided for comprehensive school reform demonstration projects to provide grants to low-income schools for improving student achievement through adoption and implementation of research-based curricula and instructional programs.

~~((xi) \$12,977,000)~~ (xiv) \$12,941,000 of the general fund—federal appropriation is provided for 21st century learning center grants, providing after-school and inter-session activities for students.

Sec. 502. 2003 1st sp.s. c 25 s 502 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR GENERAL APPORTIONMENT

General Fund—State Appropriation (FY 2004)	(\$3,969,407,000)
	<u>\$3,976,507,000</u>
General Fund—State Appropriation (FY 2005)	(\$3,977,209,000)
	<u>\$3,988,649,000</u>
TOTAL APPROPRIATION	(\$7,946,616,000)
	<u>\$7,965,156,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Allocations for certificated staff salaries for the 2003-04 and 2004-05 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Staff allocations for small school enrollments in (d)

through (f) of this subsection shall be reduced for vocational full-time equivalent enrollments. Staff allocations for small school enrollments in grades K-6 shall be the greater of that generated under (a) of this subsection, or under (d) and (e) of this subsection. Certificated staffing allocations shall be as follows:

(a) On the basis of each 1,000 average annual full-time equivalent enrollments, excluding full-time equivalent enrollment otherwise recognized for certificated staff unit allocations under (c) through (f) of this subsection:

(i) Four certificated administrative staff units per thousand full-time equivalent students in grades K-12;

(ii) 49 certificated instructional staff units per thousand full-time equivalent students in grades K-3;

(iii) Forty-six certificated instructional staff units per thousand full-time equivalent students in grades 4-12; and

(iv) An additional 4.2 certificated instructional staff units for grades K-3 and an additional 7.2 certificated instructional staff units for grade 4. Any funds allocated for the additional certificated units provided in this subsection (iv) shall not be considered as basic education funding;

(v) For class size reduction and expanded learning opportunities under the better schools program, an additional 0.8 certificated instructional staff units for the 2003-04 school year for grades K-4 per thousand full-time equivalent students. Funds allocated for these additional certificated units shall not be considered as basic education funding. The allocation may be used for reducing class sizes in grades K-4 or to provide additional classroom contact hours for kindergarten, before-and-after-school programs, weekend school programs, summer school programs, and intercession opportunities to assist elementary school students in meeting the essential academic learning requirements and student assessment performance standards. For purposes of this subsection, additional classroom contact hours provided by teachers beyond the normal school day under a supplemental contract shall be converted to a certificated full-time equivalent by dividing the classroom contact hours by 900.

(A) Funds provided under this subsection (2)(a)(iv) and (v) in excess of the amount required to maintain the statutory minimum ratio established under RCW 28A.150.260(2)(b) shall be allocated only if the district documents an actual ratio in grades K-4 equal to or greater than 54.0 certificated instructional staff per thousand full-time equivalent students in the 2003-04 school year and 53.2 certificated instructional staff per thousand full-time equivalent students in the 2004-05 school year. For any school district documenting a lower certificated instructional staff ratio, the allocation shall be based on the district's actual grades K-4 certificated instructional staff ratio achieved in that school year, or the statutory minimum ratio established under RCW 28A.150.260(2)(b), if greater;

(B) Districts at or above 51.0 certificated instructional staff per one thousand full-time equivalent students in grades K-4 may dedicate up to 1.3 of the 54.0 funding ratio in the 2003-04 school year, and up to 1.3 of the 53.2 funding ratio in the 2004-05 school year, to employ additional classified instructional assistants assigned to basic education classrooms in grades K-4. For purposes of documenting a district's staff ratio under this section, funds used by the district to employ additional classified instructional assistants shall be converted to a certificated staff equivalent and added to the district's actual

certificated instructional staff ratio. Additional classified instructional assistants, for the purposes of this subsection, shall be determined using the 1989-90 school year as the base year;

(C) Any district maintaining a ratio in grades K-4 equal to or greater than 54.0 certificated instructional staff per thousand full-time equivalent students in the 2003-04 school year and 53.2 certificated instructional staff per thousand full-time equivalent students in the 2004-05 school year may use allocations generated under this subsection (2)(a)(iv) and (v) in excess of that required to maintain the minimum ratio established under RCW 28A.150.260(2)(b) to employ additional basic education certificated instructional staff or classified instructional assistants in grades 5-6. Funds allocated under this subsection (2)(a)(iv) and (v) shall only be expended to reduce class size in grades K-6. No more than 1.3 of the certificated instructional funding ratio amount may be expended for provision of classified instructional assistants;

(b) For school districts with a minimum enrollment of 250 full-time equivalent students whose full-time equivalent student enrollment count in a given month exceeds the first of the month full-time equivalent enrollment count by 5 percent, an additional state allocation of 110 percent of the share that such increased enrollment would have generated had such additional full-time equivalent students been included in the normal enrollment count for that particular month;

(c)(i) On the basis of full-time equivalent enrollment in:

(A) Vocational education programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 19.5 full-time equivalent vocational students; and

(B) Skills center programs meeting the standards for skills center funding established in January 1999 by the superintendent of public instruction, 0.92 certificated instructional staff units and 0.08 certificated administrative units for each 16.67 full-time equivalent vocational students;

(ii) Vocational full-time equivalent enrollment shall be reported on the same monthly basis as the enrollment for students eligible for basic support, and payments shall be adjusted for reported vocational enrollments on the same monthly basis as those adjustments for enrollment for students eligible for basic support; and

(iii) Indirect cost charges by a school district to vocational-secondary programs shall not exceed 15 percent of the combined basic education and vocational enhancement allocations of state funds;

(d) For districts enrolling not more than twenty-five average annual full-time equivalent students in grades K-8, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full-time equivalent students in grades K-8:

(i) For those enrolling no students in grades 7 and 8, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 7 or 8, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for

enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled;

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average annual full-time equivalent students in grades K-8 and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty annual average full-time equivalent students in grades K-6, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty annual average full-time equivalent students in grades 7 and 8, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units;

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students, for enrollment in grades 9-12 in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades 9-12 but no more than twenty-five average annual full-time equivalent students in grades K-12, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

Units calculated under (f)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units and four certificated administrative staff units per thousand vocational full-time equivalent students;

(g) For each nonhigh school district having an enrollment of more than seventy annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-8 program or a grades 1-8 program, an additional one-half of a certificated instructional staff unit; and

(h) For each nonhigh school district having an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-6 program or a grades 1-6 program, an additional one-half of a certificated instructional staff unit.

(3) Allocations for classified salaries for the 2003-04 and 2004-05 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsection (2)(d) through (h) of this section, one classified staff unit for each three certificated staff units allocated under such subsections;

(b) For all other enrollment in grades K-12, including vocational full-time equivalent enrollments, one classified staff unit for each sixty average annual full-time equivalent students; and

(c) For each nonhigh school district with an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(4) Fringe benefit allocations shall be calculated at a rate of 9.68 percent in the 2003-04 school year and ~~((9.68))~~ 9.69 percent in the 2004-05 school year for certificated salary allocations provided under subsection (2) of this section, and a rate of 12.25 percent in the 2003-04 school year and 12.25 percent in the 2004-05 school year for classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the maintenance rate specified in section 504(2) of this act, based on the number of benefit units determined as follows:

(a) The number of certificated staff units determined in subsection (2) of this section; and

(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full-time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full-time equivalent.

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2)(a), (b), and (d) through (h) of this section, there shall be provided a maximum of \$8,785 per certificated staff unit in the 2003-04 school year and a maximum of ~~((8,952))~~ \$8,855 per certificated staff unit in the 2004-05 school year.

(b) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(A) of this section, there shall be provided a maximum of \$21,573 per certificated staff unit in the 2003-04 school year and a maximum of ~~((21,983))~~ \$21,746 per certificated staff unit in the 2004-05 school year.

(c) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(B) of this section, there shall be provided a maximum of \$16,739 per certificated staff unit in the 2003-04 school year and a maximum of ~~((17,057))~~ \$16,873 per certificated staff unit in the 2004-05 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maintenance rate of \$531.09 for the 2003-04 and 2004-05 school years per allocated classroom teachers exclusive of salary increase amounts provided in section 504 of this act. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported statewide for the prior school year.

(8) Any school district board of directors may petition the superintendent of public instruction by submission of a resolution adopted in a public meeting to reduce or delay any portion of its basic education allocation for any school year. The superintendent of public instruction shall approve such reduction or delay if it does not impair the district's financial condition. Any delay shall not be for more than two school years. Any reduction or delay shall have no impact on

levy authority pursuant to RCW 84.52.0531 and local effort assistance pursuant to chapter 28A.500 RCW.

(9) The superintendent may distribute a maximum of ~~(((\$6,392,000))~~ \$6,385,000 outside the basic education formula during fiscal years 2004 and 2005 as follows:

(a) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of \$495,000 may be expended in fiscal year 2004 and a maximum of ~~(((\$504,000))~~ \$499,000 may be expended in fiscal year 2005;

(b) For summer vocational programs at skills centers, a maximum of \$2,035,000 may be expended for the 2004 fiscal year and a maximum of \$2,035,000 for the 2005 fiscal year;

(c) A maximum of ~~(((\$353,000))~~ \$351,000 may be expended for school district emergencies; and

(d) A maximum of \$485,000 each fiscal year may be expended for programs providing skills training for secondary students who are enrolled in extended day school-to-work programs, as approved by the superintendent of public instruction. The funds shall be allocated at a rate not to exceed \$500 per full-time equivalent student enrolled in those programs.

(10) For purposes of RCW 84.52.0531, the increase per full-time equivalent student is 3.4 percent from the 2002-03 school year to the 2003-04 school year and 2.5 percent from the 2003-04 school year to the 2004-05 school year.

(11) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (2)(b) through (h) of this section, the following shall apply:

(a) For three school years following consolidation, the number of basic education formula staff units shall not be less than the number of basic education formula staff units received by the districts in the school year prior to the consolidation; and

(b) For the fourth through eighth school years following consolidation, the difference between the basic education formula staff units received by the districts for the school year prior to consolidation and the basic education formula staff units after consolidation pursuant to subsection (2)(a) through (h) of this section shall be reduced in increments of twenty percent per year.

(12) ~~(((\$159,000))~~ \$401,000 of the general fund—state appropriation for fiscal year ~~((2004 and \$1,181,000 of the general fund—state appropriation for fiscal year 2005 are))~~ 2005 is provided solely for the implementation of Second Engrossed Substitute Senate Bill No. 5012 or Second Substitute House Bill No. 2295 (charter schools). If ~~((the))~~ neither bill is ~~((not))~~ enacted by June 30, ~~((2003))~~ 2004, the amount~~((s))~~ provided in this subsection shall lapse.

Sec. 503. 2003 1st sp.s. c 25 s 503 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—
BASIC EDUCATION EMPLOYEE COMPENSATION.** (1) The following calculations determine the salaries used in the general fund allocations for certificated instructional, certificated administrative, and classified staff units under section 502 of this act:

(a) Salary allocations for certificated instructional staff units shall be determined for each district by multiplying the district's certificated instructional total base salary shown on LEAP Document 12E by the district's average staff mix factor for certificated instructional staff in that school year, computed using LEAP Document 1Sa for the 2003-04 school year and LEAP Document 1Sb for the 2004-05 school year; and

(b) Salary allocations for certificated administrative staff units and classified staff units for each district shall be based on the district's certificated administrative and classified salary allocation amounts shown on LEAP Document 12E.

(2) For the purposes of this section:

(a) "LEAP Document 1Sa" means the computerized tabulation establishing staff mix factors for certificated instructional staff for the 2003-04 school year according to education and years of experience, as developed by the legislative evaluation and accountability program committee on March 31, 2003, at 09:06 hours;

(b) "LEAP Document 1Sb" means the computerized tabulation establishing staff mix factors for certificated instructional staff for the 2004-05 school year according to education and years of experience, as developed by the legislative evaluation and accountability program committee on March 31, 2003, at 09:06 hours; and

(c) "LEAP Document 12E" means the computerized tabulation of 2003-04 and 2004-05 school year salary allocations for certificated administrative staff and classified staff and derived and total base salaries for certificated instructional staff as developed by the legislative evaluation and accountability program committee on March 31, 2003, at 09:06 hours.

(3) Incremental fringe benefit factors shall be applied to salary adjustments at a rate of 9.04 percent for school year 2003-04 and ((9.04)) 9.05 percent for school year 2004-05 for certificated staff and for classified staff 8.75 percent for school year 2003-04 and 8.75 percent for the 2004-05 school year.

(4)(a) Pursuant to RCW 28A.150.410, the following state-wide salary allocation schedules for certificated instructional staff are established for basic education salary allocations:

K-12 Salary Allocation Schedule For Certificated Instructional Staff
2003-04 School Year

Years of Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	29,149	29,936	30,752	31,568	34,192	35,881	34,947	37,570	39,262
1	29,540	30,339	31,165	32,019	34,669	36,350	35,335	37,985	39,665
2	30,060	30,870	31,709	32,633	35,289	36,995	35,901	38,556	40,262
3	30,747	31,574	32,429	33,392	36,069	37,833	36,630	39,306	41,071
4	31,285	32,151	33,017	34,018	36,724	38,510	37,208	39,914	41,701
5	31,840	32,716	33,594	34,655	37,365	39,196	37,798	40,509	42,340
6	32,251	33,108	34,016	35,131	37,827	39,667	38,213	40,910	42,750
7	33,139	34,012	34,937	36,118	38,868	40,769	39,185	41,934	43,836

8	34,202	35,122	36,069	37,348	40,135	42,106	40,414	43,202	45,172
9		36,272	37,266	38,591	41,443	43,481	41,656	44,510	46,548
10			38,477	39,898	42,788	44,894	42,964	45,855	47,960
11				41,243	44,196	46,344	44,309	47,263	49,410
12				42,545	45,642	47,854	45,707	48,708	50,921
13					47,123	49,401	47,154	50,189	52,467
14					48,611	51,006	48,644	51,775	54,073
15					49,876	52,333	49,908	53,121	55,479
16 or More					50,873	53,379	50,906	54,183	56,588

K-12 Salary Allocation Schedule For Certificated Instructional Staff
2004-05 School Year

Years of Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	30,023	30,834	31,674	32,516	35,218	36,958	35,995	38,697	40,439
1	30,427	31,249	32,100	32,979	35,709	37,440	36,395	39,125	40,855
2	30,812	31,642	32,502	33,449	36,171	37,920	36,798	39,520	41,269
3	31,209	32,047	32,916	33,893	36,610	38,401	37,180	39,895	41,687
4	31,598	32,473	33,347	34,358	37,091	38,895	37,580	40,313	42,118
5	32,000	32,879	33,762	34,829	37,552	39,392	37,987	40,711	42,551
6	32,413	33,273	34,186	35,306	38,016	39,866	38,404	41,114	42,963
7	33,139	34,012	34,937	36,118	38,868	40,769	39,185	41,934	43,836
8	34,202	35,122	36,069	37,348	40,135	42,106	40,414	43,202	45,172
9		36,272	37,266	38,591	41,443	43,481	41,656	44,510	46,548
10			38,477	39,898	42,788	44,894	42,964	45,855	47,960
11				41,243	44,196	46,344	44,309	47,263	49,410
12				42,545	45,642	47,854	45,707	48,708	50,921
13					47,123	49,401	47,154	50,189	52,467
14					48,611	51,006	48,644	51,775	54,073
15					49,876	52,333	49,908	53,121	55,479
16 or More					50,873	53,379	50,906	54,183	56,588

(b) As used in this subsection, the column headings "BA+(N)" refer to the number of credits earned since receiving the baccalaureate degree.

(c) For credits earned after the baccalaureate degree but before the masters degree, any credits in excess of forty-five credits may be counted after the masters degree. Thus, as used in this subsection, the column headings "MA+(N)" refer to the total of:

(i) Credits earned since receiving the masters degree; and

(ii) Any credits in excess of forty-five credits that were earned after the baccalaureate degree but before the masters degree.

(5) For the purposes of this section:

(a) "BA" means a baccalaureate degree.

(b) "MA" means a masters degree.

(c) "PHD" means a doctorate degree.

(d) "Years of service" shall be calculated under the same rules adopted by the superintendent of public instruction.

(e) "Credits" means college quarter hour credits and equivalent in-service credits computed in accordance with RCW 28A.415.020 and 28A.415.023.

(6) No more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in this act, or any replacement schedules and documents, unless:

(a) The employee has a masters degree; or

(b) The credits were used in generating state salary allocations before January 1, 1992.

(7) The certificated instructional staff base salary specified for each district in LEAP Document 12E and the salary schedules in subsection (4)(a) of this section include two learning improvement days. A school district is eligible for the learning improvement day funds only if the learning improvement days have been added to the 180-day contract year. If fewer days are added, the additional learning improvement allocation shall be adjusted accordingly. The additional days shall be for activities related to improving student learning consistent with education reform implementation, and shall not be considered part of basic education. The length of a learning improvement day shall not be less than the length of a full day under the base contract. The superintendent of public instruction shall ensure that school districts adhere to the intent and purposes of this subsection.

(8) The salary allocation schedules established in this section are for allocation purposes only except as provided in RCW 28A.400.200(2), subsection (7) of this section, and section 504(1) of this act.

Sec. 504. 2003 1st sp.s. c 25 s 504 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS

General Fund—State Appropriation (FY 2004)	(\$28,511,000)
	<u>\$28,604,000</u>
General Fund—State Appropriation (FY 2005)	(\$116,670,000)
	<u>\$132,202,000</u>
General Fund—Federal Appropriation	(\$559,000)
	<u>\$663,000</u>
TOTAL APPROPRIATION	(\$145,740,000)
	<u>\$161,469,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$8,913,000)~~ \$8,944,000 of the general fund—state appropriation for fiscal year 2004 and ~~(\$20,238,000)~~ \$20,339,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to provide a salary adjustment for state formula certificated instructional staff units in their first seven years of service. Consistent with the statewide certificated instructional staff salary allocation schedule in section 503 of this act, sufficient funding is provided to increase the salary of certificated instructional staff units in the 2003-04 school year and the 2004-05 school year by the following percentages:

Three percent for certificated instructional staff in their first and second years of service; two and one-half percent for certificated instructional staff in their third year of service; one and one-half percent for certificated instructional staff in their fourth year of service; one percent for certificated instructional staff in their fifth year of service; and one-half of a percent for certificated instructional staff in their sixth and seventh years of service. These increases will take effect September 1, 2003 and September 1, 2004.

(a) In order to receive funding provided in this subsection, school districts shall certify to the office of superintendent of public instruction that they will provide the percentage increases in the amounts specified in this subsection. In cases where a school district providing the increases in the amounts specified in this subsection would cause that school district to be out of compliance with RCW 28A.400.200, they may provide salary increases in different amounts but only to the extent necessary to come into compliance with RCW 28A.400.200. Funds provided in this subsection shall be used exclusively for providing the percentage increases specified in this subsection to the certificated staff units in their first seven years of service and shall not be used to supplant any other state or local funding for compensation for these staff.

(b) The appropriations include associated incremental fringe benefit allocations at rates of 9.04 percent for school year 2003-04 and ~~((9.04))~~ 9.05 percent for school year 2004-05 for certificated staff. Increases for general apportionment (basic education) are based on the salary allocation schedules and methodology in sections 502 and 503 of this act. Increases for special education result from increases in each district's basic education allocation per student. Increases for educational service districts and institutional education programs are determined by the superintendent of public instruction using the methodology for general apportionment salaries and benefits in sections 502 and 503 of this act.

(2) \$5,452,000 of the general fund—state appropriation is provided solely to provide a salary adjustment for state formula classified units of one percent effective September 1, 2004, and \$126,598,000 is provided solely for adjustments to insurance benefit allocations.

(a)(i) In order to receive funding provided in this subsection for salary adjustments for state formula classified units, school districts shall certify to the office of superintendent of public instruction that they will provide the percentage increases in the amounts specified in this subsection. Funds provided in this subsection for this purpose shall be used exclusively for providing the percentage increases specified in this subsection to classified staff units and shall not be used to supplant any other state or local funding for compensation for these staff.

(ii) The appropriations include associated incremental fringe benefit allocations at rates of 8.75 percent for the 2004-05 school year for classified staff. The appropriations in this section include the increased portion of salaries and incremental fringe benefits for all relevant state-funded school programs in this part V of this act. Increases for general apportionment (basic education) are based on the salary allocation schedules and methodology in sections 502 and 503 of this act. Increases for special education result from increases in each district's basic education allocation per student. Increases for educational service districts and institutional education programs are determined by the

superintendent of public instruction using the methodology for general apportionment salaries and benefits in sections 502 and 503 of this act.

(b) The maintenance rate for insurance benefit allocations is \$457.07 per month for the 2003-04 and 2004-05 school years. The appropriations in this section provide for a rate increase to \$481.31 per month for the 2003-04 school year and \$582.47 per month for the 2004-05 school year.

(3) The appropriations in this section provide salary adjustments and incremental fringe benefit allocations based on formula adjustments as follows:

	School Year	
	2003-04	2004-05
<u>Pupil Transportation (per weighted pupil mile)</u>	<u>\$0.00</u>	<u>\$0.22</u>
Highly Capable (per formula student)	\$0.93	\$1.89
Transitional Bilingual Education (per eligible bilingual student)	\$2.45	\$4.97
Learning Assistance (per entitlement unit)	\$0.69	(((\$1.40)) <u>\$2.94</u>)

~~((3) \$116,483,000 is provided for adjustments to insurance benefit allocations. The maintenance rate for insurance benefit allocations is \$457.07 per month for the 2003-04 and 2004-05 school years. The appropriations in this section provide for a rate increase to \$481.31 per month for the 2003-04 school year and \$570.74 per month for the 2004-05 school year at the following rates:))~~

(4) The adjustments to insurance benefit allocations are at the following rates:

	School Year	
	2003-04	2004-05
Pupil Transportation (per weighted pupil mile)	\$0.22	(((\$1.03)) <u>\$1.14</u>)
Highly Capable (per formula student)	\$1.52	(((\$7.00)) <u>\$7.72</u>)
Transitional Bilingual Education (per eligible bilingual student)	\$3.92	(((\$18.40)) <u>\$20.30</u>)
Learning Assistance (per entitlement unit)	\$3.08	(((\$14.46)) <u>\$15.95</u>)

~~((4))~~ (5) The rates specified in this section are subject to revision each year by the legislature.

Sec. 505. 2003 1st sp.s. c 25 s 505 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION

General Fund—State Appropriation (FY 2004)	(((\$201,638,000)) <u>\$215,454,000</u>)
General Fund—State Appropriation (FY 2005)	(((\$210,279,000))

	<u>\$219,899,000</u>
TOTAL APPROPRIATION	((\$411,917,000))
	<u>\$435,353,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) A maximum of \$768,000 of this fiscal year 2004 appropriation and a maximum of ((~~\$782,000~~)) \$774,000 of the fiscal year 2005 appropriation may be expended for regional transportation coordinators and related activities. The transportation coordinators shall ensure that data submitted by school districts for state transportation funding shall, to the greatest extent practical, reflect the actual transportation activity of each district.

(3) \$5,000 of the fiscal year 2004 appropriation and \$5,000 of the fiscal year 2005 appropriation are provided solely for the transportation of students enrolled in "choice" programs. Transportation shall be limited to low-income students who are transferring to "choice" programs solely for educational reasons.

(4) Allocations for transportation of students shall be based on reimbursement rates of \$39.21 per weighted mile in the 2003-04 school year and ((~~\$39.43~~)) \$39.30 per weighted mile in the 2004-05 school year exclusive of salary and benefit adjustments provided in section 504 of this act. Allocations for transportation of students transported more than one radius mile shall be based on weighted miles as determined by superintendent of public instruction multiplied by the per mile reimbursement rates for the school year pursuant to the formulas adopted by the superintendent of public instruction. Allocations for transportation of students living within one radius mile shall be based on the number of enrolled students in grades kindergarten through five living within one radius mile of their assigned school multiplied by the per mile reimbursement rate for the school year multiplied by 1.29.

(5) ((~~Beginning with~~)) For busses purchased ((~~on or after~~)) between July 1, 2003, and June 30, 2004, the office of superintendent of public instruction shall provide reimbursement funding to a school district only after the superintendent of public instruction determines that the school bus was purchased from the list established pursuant to RCW 28A.160.195(2) or a comparable competitive bid process based on the lowest price quote based on similar bus categories to those used to establish the list pursuant to RCW 28A.160.195. The competitive specifications shall meet federal motor vehicle safety standards, minimum state specifications as established by rule by the superintendent, and supported options as determined by the superintendent in consultation with the regional transportation coordinators of the educational service districts.

Sec. 506. 2003 1st sp.s. c 25 s 506 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL FOOD SERVICE PROGRAMS

General Fund—State Appropriation (FY 2004)	\$3,100,000
General Fund—State Appropriation (FY 2005)	\$3,100,000
General Fund—Federal Appropriation	((\$272,069,000))

	<u>\$252,128,000</u>
TOTAL APPROPRIATION	((<u>\$278,269,000</u>))
	<u>\$258,328,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$3,000,000 of the general fund—state appropriation for fiscal year 2004 and \$3,000,000 of the general fund—state appropriation for fiscal year 2005 are provided for state matching money for federal child nutrition programs.

(2) \$100,000 of the general fund—state appropriation for fiscal year 2004 and \$100,000 of the 2005 fiscal year appropriation are provided for summer food programs for children in low-income areas.

Sec. 507. 2003 1st sp.s. c 25 s 507 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SPECIAL EDUCATION PROGRAMS

General Fund—State Appropriation (FY 2004)	((<u>\$433,984,000</u>))
	<u>\$435,061,000</u>
General Fund—State Appropriation (FY 2005)	((<u>\$427,214,000</u>))
	<u>\$426,802,000</u>
General Fund—Federal Appropriation	((<u>\$409,637,000</u>))
	<u>\$426,450,000</u>
TOTAL APPROPRIATION	((<u>\$1,270,835,000</u>))
	<u>\$1,288,313,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Funding for special education programs is provided on an excess cost basis, pursuant to RCW 28A.150.390. School districts shall ensure that special education students as a class receive their full share of the general apportionment allocation accruing through sections 502 and 504 of this act. To the extent a school district cannot provide an appropriate education for special education students under chapter 28A.155 RCW through the general apportionment allocation, it shall provide services through the special education excess cost allocation funded in this section.

(2)(a) The superintendent of public instruction shall use the excess cost methodology developed and implemented for the 2001-02 school year using the S-275 personnel reporting system and all related accounting requirements to ensure that:

- (i) Special education students are basic education students first;
- (ii) As a class, special education students are entitled to the full basic education allocation; and
- (iii) Special education students are basic education students for the entire school day.

(b) The S-275 and accounting changes in effect since the 2001-02 school year shall supercede any prior excess cost methodologies and shall be required of all school districts.

(3) Each fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(4) The superintendent of public instruction shall distribute state and federal funds to school districts based on two categories: The optional birth through age two program for special education eligible developmentally delayed infants and toddlers, and the mandatory special education program for special education eligible students ages three to twenty-one. A "special education eligible student" means a student receiving specially designed instruction in accordance with a properly formulated individualized education program.

(5)(a) For the 2003-04 and 2004-05 school years, the superintendent shall make allocations to each district based on the sum of:

(i) A district's annual average headcount enrollment of developmentally delayed infants and toddlers ages birth through two, multiplied by the district's average basic education allocation per full-time equivalent student, multiplied by 1.15; and

(ii) A district's annual average full-time equivalent basic education enrollment multiplied by the funded enrollment percent determined pursuant to subsection (6)(b) of this section, multiplied by the district's average basic education allocation per full-time equivalent student multiplied by 0.9309.

(b) For purposes of this subsection, "average basic education allocation per full-time equivalent student" for a district shall be based on the staffing ratios required by RCW 28A.150.260 and shall not include enhancements, secondary vocational education, or small schools.

(6) The definitions in this subsection apply throughout this section.

(a) "Annual average full-time equivalent basic education enrollment" means the resident enrollment including students enrolled through choice (RCW 28A.225.225) and students from nonhigh districts (RCW 28A.225.210) and excluding students residing in another district enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

(b) "Enrollment percent" means the district's resident special education annual average enrollment, excluding the birth through age two enrollment, as a percent of the district's annual average full-time equivalent basic education enrollment.

Each district's general fund—state funded special education enrollment shall be the lesser of the district's actual enrollment percent or 12.7 percent. Increases in enrollment percent from 12.7 percent to 13.0 percent shall be funded from the general fund—federal appropriation.

(7) At the request of any interdistrict cooperative of at least 15 districts in which all excess cost services for special education students of the districts are provided by the cooperative, the maximum enrollment percent shall be calculated in accordance with subsection (6)(b) of this section, and shall be calculated in the aggregate rather than individual district units. For purposes of this subsection, the average basic education allocation per full-time equivalent student shall be calculated in the aggregate rather than individual district units.

(8) To the extent necessary, \$25,746,000 of the general fund—federal appropriation is provided for safety net awards for districts with demonstrated needs for state special education funding beyond the amounts provided in subsection (5) of this section. If safety net awards exceed the amount

appropriated in this subsection (8), the superintendent shall expend all available federal discretionary funds necessary to meet this need. Safety net funds shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

(a) The committee shall consider unmet needs for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas. In the determination of need, the committee shall also consider additional available revenues from federal and local sources. Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(b) The committee shall then consider the extraordinary high cost needs of one or more individual special education students. Differences in costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(c) The maximum allowable indirect cost for calculating safety net eligibility may not exceed the federal restricted indirect cost rate for the district plus one percent.

(d) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent in accordance with chapter 318, Laws of 1999.

(e) Safety net awards must be adjusted for any audit findings or exceptions related to special education funding.

(9) The superintendent of public instruction may adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. Prior to revising any standards, procedures, or rules, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature.

(10) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

(a) One staff from the office of superintendent of public instruction;

(b) Staff of the office of the state auditor; and

(c) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

(11) A maximum of \$678,000 may be expended from the general fund—state appropriations to fund 5.43 full-time equivalent teachers and 2.1 full-time equivalent aides at children's orthopedic hospital and medical center. This amount is in lieu of money provided through the home and hospital allocation and the special education program.

(12) \$1,000,000 of the general fund—federal appropriation is provided for projects to provide special education students with appropriate job and independent living skills, including work experience where possible, to facilitate their successful transition out of the public school system. The funds provided by this subsection shall be from federal discretionary grants.

(13) The superintendent shall maintain the percentage of federal flow-through to school districts at 85 percent. In addition to other purposes, school districts may use increased federal funds for high-cost students, for purchasing regional special education services from educational service districts, and for staff development activities particularly relating to inclusion issues.

(14) A maximum of \$1,200,000 of the general fund—federal appropriation may be expended by the superintendent for projects related to use of inclusion strategies by school districts for provision of special education services. The superintendent shall prepare an information database on laws, best practices, examples of programs, and recommended resources. The information may be disseminated in a variety of ways, including workshops and other staff development activities.

(15) A school district may carry over from one year to the next year up to 10 percent of the general fund—state funds allocated under this program; however, carry over funds shall be expended in the special education program.

Sec. 508. 2003 1st sp.s. c 25 s 508 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATIONAL SERVICE DISTRICTS

General Fund—State Appropriation (FY 2004)	\$3,538,000
General Fund—State Appropriation (FY 2005)	(\$3,537,000)
	<u>\$3,538,000</u>
TOTAL APPROPRIATION	(\$7,075,000)
	<u>\$7,076,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The educational service districts shall continue to furnish financial services required by the superintendent of public instruction and RCW 28A.310.190 (3) and (4).

(2) The educational service districts, at the request of the state board of education pursuant to RCW 28A.310.010 and 28A.310.340, may receive and screen applications for school accreditation, conduct school accreditation site visits pursuant to state board of education rules, and submit to the state board of education post-site visit recommendations for school accreditation. The educational service districts may assess a cooperative service fee to recover actual plus reasonable indirect costs for the purposes of this subsection.

Sec. 509. 2003 1st sp.s. c 25 s 509 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR LOCAL EFFORT ASSISTANCE

General Fund—State Appropriation (FY 2004)	(\$162,236,000)
	<u>\$163,049,000</u>
General Fund—State Appropriation (FY 2005)	(\$167,073,000)
	<u>\$165,578,000</u>
TOTAL APPROPRIATION	(\$329,309,000)
	<u>\$328,627,000</u>

Sec. 510. 2003 1st sp.s. c 25 s 510 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR INSTITUTIONAL EDUCATION PROGRAMS

General Fund—State Appropriation (FY 2004)	(\$18,596,000)
	<u>\$18,207,000</u>

General Fund—State Appropriation (FY 2005)	(\$19,092,000))
	<u>\$18,176,000</u>
TOTAL APPROPRIATION	(\$37,688,000))
	<u>\$36,383,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund—state fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.

(3) State funding for each institutional education program shall be based on the institution's annual average full-time equivalent student enrollment. Staffing ratios for each category of institution shall remain the same as those funded in the 1995-97 biennium.

(4) The funded staffing ratios for education programs for juveniles age 18 or less in department of corrections facilities shall be the same as those provided in the 1997-99 biennium.

(5) ((~~\$279,000~~)) \$190,000 of the general fund—state appropriation for fiscal year 2004 and ((~~\$286,000~~)) \$142,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to maintain at least one certificated instructional staff and related support services at an institution whenever the K-12 enrollment is not sufficient to support one full-time equivalent certificated instructional staff to furnish the educational program. The following types of institutions are included: Residential programs under the department of social and health services for developmentally disabled juveniles, programs for juveniles under the department of corrections, and programs for juveniles under the juvenile rehabilitation administration.

(6) Ten percent of the funds allocated for each institution may be carried over from one year to the next.

Sec. 511. 2003 1st sp.s. c 25 s 511 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS

General Fund—State Appropriation (FY 2004)	(\$6,597,000))
	<u>\$6,620,000</u>
General Fund—State Appropriation (FY 2005)	(\$6,614,000))
	<u>\$6,632,000</u>
TOTAL APPROPRIATION	(\$13,211,000))
	<u>\$13,252,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Allocations for school district programs for highly capable students shall be distributed at a maximum rate of \$334.89 per funded student for the 2003-04 school year and ~~(((\$334.89))~~ \$334.91 per funded student for the 2004-05 school year, exclusive of salary and benefit adjustments pursuant to section 504 of this act. The number of funded students shall be a maximum of two percent of each district's full-time equivalent basic education enrollment.

(3) \$170,000 of the fiscal year 2004 appropriation and \$170,000 of the fiscal year 2005 appropriation are provided for the centrum program at Fort Worden state park.

(4) \$90,000 of the fiscal year 2004 appropriation and \$90,000 of the fiscal year 2005 appropriation are provided for the Washington destination imagination network and future problem-solving programs.

Sec. 512. 2003 1st sp.s. c 25 s 512 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR MISCELLANEOUS PURPOSES UNDER THE ELEMENTARY AND SECONDARY SCHOOL IMPROVEMENT ACT AND THE NO CHILD LEFT BEHIND ACT

General Fund—Federal Appropriation ~~(((\$46,198,000))~~
\$42,817,000

***Sec. 513.** 2003 1st sp.s. c 25 s 513 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—EDUCATION REFORM PROGRAMS

General Fund—State Appropriation (FY 2004) ~~(((\$39,107,000))~~
\$38,417,000

General Fund—State Appropriation (FY 2005) ~~(((\$36,501,000))~~
\$37,709,000

General Fund—Federal Appropriation ~~(((\$128,402,000))~~
\$164,087,000

TOTAL APPROPRIATION ~~(((\$204,010,000))~~
\$240,213,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$310,000 of the general fund—state appropriation for fiscal year 2004 and \$310,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the academic achievement and accountability commission.

(2) ~~(((\$16,050,000))~~ \$15,486,000 of the general fund—state appropriation for fiscal year 2004, ~~(((\$12,511,000))~~ \$13,103,000 of the general fund—state appropriation for fiscal year 2005, and ~~(((\$15,455,000))~~ \$12,310,000 of the general fund—federal appropriation are provided solely for development and implementation of the Washington assessments of student learning ~~((—Of the general fund—state amounts provided:~~

~~(a) \$222,000 in fiscal year 2004 and \$244,000 in fiscal year 2005 are for providing high school students who are not successful in one or more content areas of the Washington assessment of student learning the opportunity to retake the test and \$75,000 of the fiscal year 2004 appropriation is provided for~~

developing alternative assessments as provided in Engrossed Substitute House Bill No. 2195 (state academic standards). If Engrossed Substitute House Bill No. 2195 is not enacted by June 30, 2003, the amounts in this subsection (a) shall lapse:

(b) ~~\$300,000 in fiscal year 2004 is for independent research on the alignment and technical review of the reading, writing, and science content areas of the Washington assessment of student learning, as provided by Engrossed Substitute House Bill No. 2195 (state academic standards). If Engrossed Substitute House Bill No. 2195 is not enacted by June 30, 2003, the amount in this subsection (b) shall lapse)~~ (WASL), including development and implementation of retake assessments for high school students who are not successful in one or more content areas of the WASL, development of alternative assessments or appeals procedures to implement the certificate of academic achievement, and independent research on the alignment and technical review of reading, writing, and science.

(3) \$548,000 of the fiscal year 2004 general fund—state appropriation and \$548,000 of the fiscal year 2005 general fund—state appropriation are provided solely for training of paraprofessional classroom assistants and certificated staff who work with classroom assistants as provided in RCW 28A.415.310.

(4) \$2,348,000 of the general fund—state appropriation for fiscal year 2004 and \$2,348,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for mentor teacher assistance, including state support activities, under RCW 28A.415.250 and 28A.415.260, and for a mentor academy. Up to \$200,000 of the amount in this subsection may be used each fiscal year to operate a mentor academy to help districts provide effective training for peer mentors. Funds for the teacher assistance program shall be allocated to school districts based on the number of first year beginning teachers.

(a) A teacher assistance program is a program that provides to a first year beginning teacher peer mentor services that include but are not limited to:

(i) An orientation process and individualized assistance to help beginning teachers who have been hired prior to the start of the school year prepare for the start of a school year;

(ii) The assignment of a peer mentor whose responsibilities to the beginning teacher include but are not limited to constructive feedback, the modeling of instructional strategies, and frequent meetings and other forms of contact;

(iii) The provision by peer mentors of strategies, training, and guidance in critical areas such as classroom management, student discipline, curriculum management, instructional skill, assessment, communication skills, and professional conduct. A district may provide these components through a variety of means including one-on-one contact and workshops offered by peer mentors to groups, including cohort groups, of beginning teachers;

(iv) The provision of release time, substitutes, mentor training in observation techniques, and other measures for both peer mentors and beginning teachers, to allow each an adequate amount of time to observe the other and to provide the classroom experience that each needs to work together effectively;

(v) Assistance in the incorporation of the essential academic learning requirements into instructional plans and in the development of complex teaching strategies, including strategies to raise the achievement of students with diverse learning styles and backgrounds; and

(vi) Guidance and assistance in the development and implementation of a professional growth plan. The plan shall include a professional self-evaluation component and one or more informal performance assessments. A peer mentor may not be involved in any evaluation under RCW 28A.405.100 of a beginning teacher whom the peer mentor has assisted through this program.

(b) In addition to the services provided in (a) of this subsection, an eligible peer mentor program shall include but is not limited to the following components:

(i) Strong collaboration among the peer mentor, the beginning teacher's principal, and the beginning teacher;

(ii) Stipends for peer mentors and, at the option of a district, for beginning teachers. The stipends shall not be deemed compensation for the purposes of salary lid compliance under RCW 28A.400.200 and are not subject to the continuing contract provisions of Title 28A RCW; and

(iii) To the extent that resources are available for this purpose and that assistance to beginning teachers is not adversely impacted, the program may serve second year and more experienced teachers who request the assistance of peer mentors.

(5) \$1,959,000 of the general fund—state appropriation for fiscal year 2004 and \$1,959,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for improving technology infrastructure, monitoring and reporting on school district technology development, promoting standards for school district technology, promoting statewide coordination and planning for technology development, and providing regional educational technology support centers, including state support activities, under chapter 28A.650 RCW. The superintendent of public instruction shall coordinate a process to facilitate the evaluation and provision of online curriculum courses to school districts which includes the following: Creation of a general listing of the types of available online curriculum courses; a survey conducted by each regional educational technology support center of school districts in its region regarding the types of online curriculum courses desired by school districts; a process to evaluate and recommend to school districts the best online courses in terms of curriculum, student performance, and cost; and assistance to school districts in procuring and providing the courses to students.

(6) \$3,594,000 of the general fund—state appropriation for fiscal year 2004 and \$3,594,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for grants to school districts to provide a continuum of care for children and families to help children become ready to learn. Grant proposals from school districts shall contain local plans designed collaboratively with community service providers. If a continuum of care program exists in the area in which the school district is located, the local plan shall provide for coordination with existing programs to the greatest extent possible. Grant funds shall be allocated pursuant to RCW 70.190.040.

(7) \$2,500,000 of the general fund—state appropriation for fiscal year 2004 and \$2,500,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the meals for kids program under RCW 28A.235.145 through 28A.235.155.

(8) \$705,000 of the general fund—state appropriation for fiscal year 2004 and \$705,000 of the general fund—state appropriation for fiscal year 2005 are

provided solely for the leadership internship program for superintendents, principals, and program administrators.

(9) A maximum of \$250,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$250,000 of the general fund—state appropriation for fiscal year 2005 are provided for summer accountability institutes offered by the superintendent of public instruction and the academic achievement and accountability commission. The institutes shall provide school district staff with training in the analysis of student assessment data, information regarding successful district and school teaching models, research on curriculum and instruction, and planning tools for districts to improve instruction in reading, mathematics, language arts, social studies, including civics, and guidance and counseling.

(10) \$3,713,000 of the general fund—state appropriation for fiscal year 2004 and \$3,713,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the Washington reading corps subject to the following conditions and limitations:

(a) Grants shall be allocated to schools and school districts to implement proven, research-based mentoring and tutoring programs in reading that may include research-based reading skills development software for low-performing students in grades K-6. If the grant is made to a school district, the principals of schools enrolling targeted students shall be consulted concerning design and implementation of the program.

(b) The programs may be implemented before, after, or during the regular school day, or on Saturdays, summer, intercessions, or other vacation periods.

(c) Two or more schools may combine their Washington reading corps programs.

(d) A program is eligible for a grant if it meets the following conditions:

(i) The program employs methods of teaching and student learning based on reliable reading/literacy research and effective practices;

(ii) The program design is comprehensive and includes instruction, ongoing student assessment, professional development, parental/community involvement, and program management aligned with the school's reading curriculum;

(iii) It provides quality professional development and training for teachers, staff, and volunteer mentors and tutors;

(iv) It has measurable goals for student reading aligned with the essential academic learning requirements;

(v) It contains an evaluation component to determine the effectiveness of the program; and

(vi) The program may include a software-based solution to increase the student/tutor ratio to a minimum of 5:1. The selected software program shall be scientifically researched-based.

(e) Funding priority shall be given to low-performing schools.

(f) Beginning and end-of-program testing data shall be available to determine the effectiveness of funded programs and practices. Common evaluative criteria across programs, such as grade-level improvements shall be available for each reading corps program. The superintendent of public instruction shall provide program evaluations to the governor and the

appropriate committees of the legislature. Administrative and evaluation costs may be assessed from the annual appropriation for the program.

(g) Grants provided under this section may be used by schools and school districts for expenditures from September 2003 through August 31, 2005.

(11) (~~(\$1,564,000)~~) \$1,313,000 of the general fund—state appropriation for fiscal year 2004 and (~~(\$2,497,000)~~) \$2,473,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for salary bonuses for teachers who attain certification by the national board for professional teaching standards, subject to the following conditions and limitations:

(a) Teachers who hold a valid certificate from the national board during the 2003-04 or 2004-05 school years shall receive an annual bonus not to exceed \$3,500 in each of these school years in which they hold a national board certificate.

(b) The annual bonus shall be paid in a lump sum amount and shall not be included in the definition of "earnable compensation" under RCW 41.32.010(10).

(12) \$313,000 of the general fund—state appropriation for fiscal year 2004 and \$313,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for a principal support program. The office of the superintendent of public instruction may contract with an independent organization to administer the program. The program shall include: (a) Development of an individualized professional growth plan for a new principal or principal candidate; and (b) participation of a mentor principal who works over a period of between one and three years with the new principal or principal candidate to help him or her build the skills identified as critical to the success of the professional growth plan.

(13) \$126,000 of the general fund—state appropriation for fiscal year 2004 and \$126,000 of the general fund—state appropriation for fiscal year 2005 are provided for the development and posting of web-based instructional tools, assessment data, and other information that assists schools and teachers implementing higher academic standards.

(14) \$3,046,000 of the general fund—state appropriation for fiscal year 2004 and \$3,046,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to the office of the superintendent of public instruction for focused assistance. The office of the superintendent of public instruction shall conduct educational audits of low-performing schools and enter into performance agreements between school districts and the office to implement the recommendations of the audit and the community. Each educational audit shall include recommendations for best practices and ways to address identified needs and shall be presented to the community in a public meeting to seek input on ways to implement the audit and its recommendations.

(15) \$1,764,000 of the general fund—state appropriation for fiscal year 2004 and \$1,764,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the mathematics helping corps subject to the following conditions and limitations:

(a) In order to increase the availability and quality of technical mathematics assistance statewide, the superintendent of public instruction shall employ mathematics school improvement specialists to provide assistance to schools and districts. The specialists shall be hired by and work under the direction of a

statewide school improvement coordinator. The mathematics improvement specialists shall not be permanent employees of the superintendent of public instruction.

(b) The school improvement specialists shall provide the following:

(i) Assistance to schools to disaggregate student performance data and develop improvement plans based on those data;

(ii) Consultation with schools and districts concerning their performance on the Washington assessment of student learning and other assessments emphasizing the performance on the mathematics assessments;

(iii) Consultation concerning curricula that aligns with the essential academic learning requirements emphasizing the academic learning requirements for mathematics, the Washington assessment of student learning, and meets the needs of diverse learners;

(iv) Assistance in the identification and implementation of research-based instructional practices in mathematics;

(v) Staff training that emphasizes effective instructional strategies and classroom-based assessment for mathematics;

(vi) Assistance in developing and implementing family and community involvement programs emphasizing mathematics; and

(vii) Other assistance to schools and school districts intended to improve student mathematics learning.

(16) (~~(\$87,901,000)~~) \$125,000 of the general fund—state appropriation for fiscal year 2004 and \$125,000 of the general fund—state appropriation for fiscal year 2005 are provided for the Tukwila school district and the Selah school district for a two-year project designed to improve the districts' performance in reading and math and to close the achievement gap within the district, subject to the following conditions and limitations:

(a) Funds shall be allocated to all schools within the Tukwila school district and Selah school district to implement proven, research-based reading and math intervention software for low-performing students in grades K-12.

(b) The programs may be implemented before, during, or after the regular school day, on Saturdays, or summer intercessions.

(c) A program is eligible for funding if it meets the following conditions:

(i) The program employs methods of teaching and student learning based on reliable research and best practices;

(ii) The program design is comprehensive and includes instruction, ongoing student assessment, professional development, and program management aligned with the district's reading and math curriculum;

(iii) The program provides quality professional development and training for teachers, staff, and volunteer mentors or tutors;

(iv) The program contains an evaluation component to determine the effectiveness of the program, which will be reported to the legislature and the superintendent of public instruction on an annual basis for the duration of the project.

(d) Beginning and end-of-program testing data shall be available to determine the effectiveness of funded programs and practices. Common evaluative criteria across programs, such as grade-level improvements, shall be available for each program.

(e) All materials related to the project shall be retained by the district at the end of the two-year term.

(17) \$515,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the math initiative. The office of the superintendent of public instruction shall evaluate textbooks and other instructional materials for math to determine the extent to which they are aligned with the state standards. A scorecard of the analysis shall be made available to school districts. The superintendent shall also develop and disseminate information on essential components of comprehensive, school-based math programs and shall work with mentor teachers from around the state to develop guidelines for eligibility, training, and professional development for mentor math teachers.

(18) \$125,822,000 of the general fund—federal appropriation is provided for preparing, training, and recruiting high quality teachers and principals under Title II of the no child left behind act. **Of this amount, \$50,000 of the general fund—federal appropriation for state administration under Title II is provided solely for the joint legislative audit and review committee to conduct a study of state and school district expenditures of Title II monies. The office of superintendent of public instruction shall establish an interagency agreement with the joint legislative audit and review committee to carry out this study.**

~~((17)—\$25,046,000))~~ (19) \$25,955,000 of the general fund—federal appropriation is provided for the reading first program under Title I of the no child left behind act.

*Sec. 513 was partially vetoed. See message at end of chapter.

Sec. 514. 2003 1st sp.s. c 25 s 514 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRANSITIONAL BILINGUAL PROGRAMS

General Fund—State Appropriation (FY 2004)	((49,791,000))
	<u>\$50,678,000</u>
General Fund—State Appropriation (FY 2005)	((52,062,000))
	<u>\$54,050,000</u>
General Fund—Federal Appropriation (FY 2005)	((46,309,000))
	<u>\$44,544,000</u>
TOTAL APPROPRIATION	((148,162,000))
	<u>\$149,272,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) The superintendent shall distribute a maximum of \$725.11 per eligible bilingual student in the 2003-04 school year and ~~((725.11))~~ \$725.17 in the 2004-05 school year, exclusive of salary and benefit adjustments provided in section 504 of this act.

(3) The superintendent may withhold up to \$700,000 in school year 2003-04 and up to \$700,000 in school year 2004-05, and adjust the per eligible pupil rates in subsection (2) of this section accordingly, for the central provision of assessments as provided in RCW 28A.180.090 (1) and (2).

(4) \$70,000 of the amounts appropriated in this section are provided solely to develop a system for the tracking of current and former transitional bilingual program students.

(5) The general fund—federal appropriation in this section is provided for migrant education under Title I Part C and English language acquisition, and language enhancement grants under Title III of the elementary and secondary education act.

Sec. 515. 2003 1st sp.s. c 25 s 515 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE LEARNING ASSISTANCE PROGRAM

General Fund—State Appropriation (FY 2004)	((<u>\$65,385,000</u>))
	<u>\$64,366,000</u>
General Fund—State Appropriation (FY 2005)	((<u>\$64,051,000</u>))
	<u>\$62,929,000</u>
General Fund—Federal Appropriation	((<u>\$307,178,000</u>))
	<u>\$301,322,000</u>
TOTAL APPROPRIATION	((<u>\$436,614,000</u>))
	<u>\$428,617,000</u>

(1) The general fund—state appropriations in this section are subject to the following conditions and limitations:

(a) Each general fund—state fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(b) Funding for school district learning assistance programs shall be allocated at maximum rates of \$432.15 per funded unit for the 2003-04 school year and ((~~\$433.03~~) \$432.53) per funded unit for the 2004-05 school year exclusive of salary and benefit adjustments provided under section 504 of this act.

(c) For purposes of this section, "test results" refers to the district results from the norm-referenced test administered in the specified grade level. The norm-referenced test results used for the third and sixth grade calculations shall be consistent with the third and sixth grade tests required under RCW 28A.230.190 and 28A.230.193.

(d) A school district's general fund—state funded units shall be the sum of the following:

(i) The district's full-time equivalent enrollment in grades K-6, multiplied by the 5-year average 4th grade lowest quartile test results as adjusted for funding purposes in the school years prior to 1999-2000, multiplied by 0.82. As the 3rd grade test becomes available, it shall be phased into the 5-year average on a 1-year lag;

(ii) The district's full-time equivalent enrollment in grades 7-9, multiplied by the 5-year average 8th grade lowest quartile test results as adjusted for funding purposes in the school years prior to 1999-2000, multiplied by 0.82. As the 6th grade test becomes available, it shall be phased into the 5-year average for these grades on a 1-year lag;

(iii) The district's full-time equivalent enrollment in grades 10-11 multiplied by the 5-year average 11th grade lowest quartile test results, multiplied by 0.82.

As the 9th grade test becomes available, it shall be phased into the 5-year average for these grades on a 1-year lag;

(iv) If, in the prior school year, the district's percentage of October headcount enrollment in grades K-12 eligible for free and reduced price lunch exceeded the state average, subtract the state average percentage of students eligible for free and reduced price lunch from the district's percentage and multiply the result by the district's K-12 annual average full-time equivalent enrollment for the current school year multiplied by 22.3 percent; and

(v) In addition to amounts allocated under (d) of this subsection, for school districts in which the effective Title I Part A (basic program) increase is insufficient to cover the formula change in the multiplier from .92 to .82, a state allocation shall be provided that, when combined with the effective increase in federal Title I Part A (basic program) funds from the 2001-02 school year, is sufficient to cover this amount. The effective Title I Part A (basic program) increase is the current school year federal Title I Part A (basic program) allocation minus the 2001-02 school year federal Title I Part A (basic program) allocation, after the 2001-02 Title I Part A allocation has been inflated by three percent.

(2) The general fund—federal appropriation in this section is provided for Title I Part A allocations of the no child left behind act of 2001.

(3) A school district may carry over from one year to the next up to 10 percent of the general fund—state funds allocated under this program; however, carryover funds shall be expended for the learning assistance program.

Sec. 516. 2003 1st sp.s. c 25 s 516 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR STUDENT ACHIEVEMENT PROGRAM

Student Achievement Fund—State

Appropriation (FY 2004) ((~~\$203,123,000~~))
\$214,107,000

Student Achievement Fund—State

Appropriation (FY 2005) ((~~\$195,080,000~~))
\$195,535,000

TOTAL APPROPRIATION ((~~\$398,203,000~~))
\$409,642,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Funding for school district student achievement programs shall be allocated at a maximum rate of ((~~\$211.67~~)) \$219.32 per FTE student for the 2003-04 school year and \$254.00 per FTE student for the 2004-05 school year. For the purposes of this section and in accordance with RCW 84.52.068, FTE student refers to the annual average full-time equivalent enrollment of the school district in grades kindergarten through twelve for the prior school year.

(2) The appropriation is allocated for the following uses as specified in RCW 28A.505.210:

(a) To reduce class size by hiring certificated elementary classroom teachers in grades K-4 and paying nonemployee-related costs associated with those new teachers;

(b) To make selected reductions in class size in grades 5-12, such as small high school writing classes;

(c) To provide extended learning opportunities to improve student academic achievement in grades K-12, including, but not limited to, extended school year, extended school day, before-and-after-school programs, special tutoring programs, weekend school programs, summer school, and all-day kindergarten;

(d) To provide additional professional development for educators including additional paid time for curriculum and lesson redesign and alignment, training to ensure that instruction is aligned with state standards and student needs, reimbursement for higher education costs related to enhancing teaching skills and knowledge, and mentoring programs to match teachers with skilled, master teachers. The funding shall not be used for salary increases or additional compensation for existing teaching duties, but may be used for extended year and extended day teaching contracts;

(e) To provide early assistance for children who need prekindergarten support in order to be successful in school; or

(f) To provide improvements or additions to school building facilities which are directly related to the class size reductions and extended learning opportunities under (a) through (c) of this subsection (2).

(3) For the 2003-04 school year, the office of the superintendent of public instruction shall distribute ten percent of the school year allocation to districts each month for the months of September through June. For the 2004-05 school year, the superintendent of public instruction shall distribute the school year allocation according to the monthly apportionment schedule defined in RCW 28A.510.250.

Sec. 517. 2003 1st sp.s. c 25 s 517 (uncodified) is amended to read as follows:

K-12 CARRYFORWARD AND PRIOR SCHOOL YEAR ADJUSTMENTS. State general fund and state student achievement fund appropriations provided to the superintendent of public instruction for state entitlement programs in the public schools in this part V of this act may be expended as needed by the superintendent for adjustments to apportionment for prior fiscal periods. Recoveries of state general fund moneys from school districts and educational service districts for a prior fiscal period shall be made as reductions in apportionment payments for the current fiscal period and shall be shown as prior year adjustments on apportionment reports for the current period. Such recoveries shall not be treated as revenues to the state, but as a reduction in the amount expended against the appropriation for the current fiscal period.

PART VI HIGHER EDUCATION

***Sec. 601.** 2003 1st sp.s. c 25 s 602 (uncodified) is amended to read as follows:

(1) The appropriations in sections 603 through 610 of this act provide state general fund support for full-time equivalent student enrollments at each institution of higher education. Listed below are the annual full-time equivalent student enrollments by institutions assumed in this act.

	2003-04 Annual Average		2004-05 Annual Average	
University of Washington				
Main campus	((32,427))	<u>32,458</u>	((32,427))	<u>32,796</u>
Bothell branch	1,235		1,235	
Tacoma branch	((1,484))	<u>1,494</u>	((1,484))	<u>1,494</u>
Washington State University				
Main campus	((17,348))	<u>17,479</u>	((17,364))	<u>17,670</u>
Spokane branch	((593))	<u>616</u>	((593))	<u>616</u>
Tri-Cities branch	((616))	<u>633</u>	((616))	<u>633</u>
Vancouver branch	((1,153))	<u>1,162</u>	((1,153))	<u>1,162</u>
Central Washington University	((7,666))	<u>7,809</u>	((7,666))	<u>7,934</u>
Eastern Washington University	((8,017))	<u>8,150</u>	((8,017))	<u>8,228</u>
The Evergreen State College	((3,837))	<u>3,871</u>	((3,837))	<u>3,908</u>
Western Washington University	((11,126))	<u>11,242</u>	((11,126))	<u>11,350</u>
State Board for Community and Technical Colleges	((126,070))	<u>127,189</u>	((126,070))	<u>128,412</u>
Higher Education Coordinating Board	((246))	<u>0</u>	((500))	<u>603</u>

(2)(a) In addition to the annual full-time equivalent student enrollments enumerated in this section, funding is provided in (i) section 603 of this act for additional community or technical college full-time equivalent student enrollments in high-demand fields of study and (ii) section 722 of this act (special appropriations to the governor) for additional full-time equivalent transfer student enrollments with junior-class standing.

(b) For the state universities, the number of full-time equivalent student enrollments enumerated in this section for the branch campuses are the minimum required enrollment levels for those campuses. At the start of an academic year, the governing board of a state university may transfer full-time equivalent student enrollments from the main campus to one or more branch campus. Intent notice shall be provided to the office of financial management and reassignment of funded enrollment is contingent upon satisfying data needs of the forecast division who is responsible to track and monitor state-supported college enrollment.

(3) It is the intent of the legislature that baccalaureate higher education institutions manage actual full-time equivalent student enrollments to be within a band of two percent of budgeted enrollments, over a period of three years.

*Sec. 601 was partially vetoed. See message at end of chapter.

Sec. 602. 2003 1st sp.s. c 25 s 603 (uncodified) is amended to read as follows:

FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

General Fund—State Appropriation (FY 2004)	((<u>\$507,960,000</u>))
	<u>\$509,539.000</u>
General Fund—State Appropriation (FY 2005)	((<u>\$517,854,000</u>))
	<u>\$526,108.000</u>
Administrative Contingency Account—State Appropriation.	((<u>\$3,200,000</u>))
	<u>\$6,700.000</u>
TOTAL APPROPRIATION	((<u>\$1,029,014,000</u>))
	<u>\$1,042,347.000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The technical colleges may increase tuition and fees in excess of the fiscal growth factor to conform with the percentage increase in community college operating fees.

(2) \$1,250,000 of the general fund—state appropriation for fiscal year 2004 and \$1,250,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to increase salaries and related benefits for part-time faculty. The board shall report by January 30, 2004, to the office of financial management and legislative fiscal and higher education committees on (a) the distribution of state funds; and (b) wage adjustments for part-time faculty.

(3) \$1,250,000 of the general fund—state appropriation for fiscal year 2004 and \$1,250,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for faculty salary increments and associated benefits and may be used in combination with salary and benefit savings from faculty turnover to provide salary increments and associated benefits.

(4) \$1,000,000 of the general fund—state appropriation for fiscal year 2004 and \$1,000,000 of the general fund—state appropriation for fiscal year 2005 are provided for a program to fund the start-up of new community and technical college programs in rural counties as defined under RCW 43.160.020(12) and in communities impacted by business closures and job reductions. Successful proposals must respond to local economic development strategies and must include a plan to continue programs developed with this funding.

(5) \$675,000 of the general fund—state appropriation for fiscal year 2004 and \$675,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for allocation to Clark Community College and Lower Columbia Community College to prepare a total of 168 full-time equivalent students for transfer to the engineering and science institute at the Vancouver branch campus of Washington State University. The appropriations in this section are intended to supplement, not supplant, general enrollment allocations by the board to districts named in this subsection.

(6) \$640,000 of the general fund—state appropriation for fiscal year 2004 and \$640,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for allocation to twelve college districts identified in (a) through (l) of this subsection to prepare students for transfer to the state technology

institute at the Tacoma branch campus of the University of Washington. The appropriations in this section are intended to supplement, not supplant, general enrollment allocations by the board to the districts under (a) through (l) of this subsection:

- (a) Bates Technical College;
- (b) Bellevue Community College;
- (c) Centralia Community College;
- (d) Clover Park Community College;
- (e) Grays Harbor Community College;
- (f) Green River Community College;
- (g) Highline Community College;
- (h) Tacoma Community College;
- (i) Olympic Community College;
- (j) Pierce District;
- (k) Seattle District; and
- (l) South Puget Sound Community College.

(7) \$28,761,000 of the general fund—state appropriation for fiscal year 2004 (~~and \$28,761,000~~), \$25,261,000 of the general fund—state appropriation for fiscal year 2005, and \$3,500,000 of the administrative contingency account—state appropriation are provided solely as special funds for training and related support services, including financial aid, as specified in chapter 226, Laws of 1993 (employment and training for unemployed workers). Funding is provided to support up to (~~(6,200)~~) 7,219 full-time equivalent students in each fiscal year.

(8) \$1,000,000 of the general fund—state appropriation for fiscal year 2004 and \$1,000,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for tuition support for students enrolled in work-based learning programs.

(9) \$2,950,000 of the administrative contingency account—state appropriation is provided solely for administration and customized training contracts through the job skills program, which shall be made available broadly and not to the exclusion of private nonprofit baccalaureate degree granting institutions or vocational arts career schools operating in Washington state who partner with a firm, hospital, group, or industry association concerned with commerce, trade, manufacturing, or the provision of services to train current or prospective employees. The state board shall make an annual report by January 1 of each fiscal year to the governor and appropriate policy and fiscal committees of the legislature regarding the implementation of this section listing the scope of grant awards, the distribution of funds by educational sector and region of the state, as well as successful partnerships being supported by these state funds.

(10) \$250,000 of the administrative contingency account—state appropriation is provided solely and on a one-time basis to start up a college district consortium organized under the name "alliance for corporate education." Financial operations shall be self-sustaining by no later than June 30, 2005, after which time any amount remaining unexpended from this amount shall lapse.

(11) \$50,000 of the general fund—state appropriation for fiscal year 2004 and \$50,000 of the general fund—state appropriation for fiscal year 2005 are

solely for higher education student child care matching grants under chapter 28B.135 RCW.

(12) \$212,000 of the general fund—state appropriation for fiscal year 2004 and \$212,000 of the general fund—state appropriation for fiscal year 2005 are provided for allocation to Olympic college. The college shall contract with accredited baccalaureate institution(s) to bring a program of upper-division courses to Bremerton. The state board for community and technical colleges shall report to the office of financial management and the fiscal and higher education committees of the legislature on the implementation of this subsection by December 1st of each fiscal year.

(13) \$6,304,000 of the general fund—state appropriation for fiscal year 2004 and ~~(\$6,305,000)~~ \$9,868,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to expand enrollment in high-demand fields.

(a) High-demand fields means (i) health services, (ii) applied science and engineering, (iii) viticulture and enology, ~~(and)~~ (iv) information technology, and (v) expansion of worker retraining programs. The state board shall allocate resources among the four areas specified in this subsection and shall manage a competitive process for awarding resources for health services, viticulture, enology, and applied science and engineering programs.

(b) The state board shall provide information on the number of additional headcount and full-time equivalent students enrolled in high-demand fields ~~((by November 1 of each fiscal year))~~ at the conclusion of each academic year, as soon as final enrollment data becomes available, to the office of financial management and the fiscal and higher education committees of the legislature.

(14) \$111,000 of the general fund—state appropriation for fiscal year 2004 and \$86,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to support the development of a comprehensive viticulture (grape growing) and enology (wine making) higher education program in Washington state. From these sums, the state board shall allocate:

(a) \$75,000 a year to Walla Walla community college for its associate science and associate arts degree programs for the purpose of vineyard and wine-making equipment purchases, student labor, instructional supplies, field work, and travel expenses;

(b) \$25,000 on a one-time basis to Wenatchee community college for the purpose of adapting its orchard employee educational program; and

(c) \$22,000 on a one-time basis to Yakima Valley community college for the purpose of vineyard and wine-making equipment and supply purchases.

The college districts named in this subsection are encouraged to seek a portion of the high-demand student enrollment funding made available on a competitive basis through the state board to address their respective need for additional instructors and professional staff.

(15) \$300,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the transition math project to address the need to reduce remedial math courses taken at institutions of higher education.

(a) The project will bring together representatives from the K-12 system, the two-year college system, and the public four-year institutions of higher education to: (i) Align standards and expectations for mathematics so that high school graduates will be well prepared to enter college-level math courses; (ii) increase student success in completing math requirements in high school and

college through careful attention to improved instruction and assessment; and (iii) communicate math expectations to students through clear and consistent messages and focused educational advising. The state board for community and technical colleges will serve as fiscal agent for the project.

(b) By December 1, 2004, the state board, in coordination with the K-12 system and the public four-year institutions of higher education, shall provide a progress report on the transition math project to the office of financial management and the fiscal and higher education committees of the legislature. A final report will be submitted by December 1, 2005 and shall identify specific strategies implemented to reduce remedial math courses taken at higher education institutions, as well as a long-term plan to achieve measurable and specific improvements each academic year for substantial progress towards the achievement of this goal.

*Sec. 603. 2003 1st sp.s. c 25 s 604 (uncodified) is amended to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

General Fund—State Appropriation (FY 2004)	\$311,628,000
General Fund—State Appropriation (FY 2005)	(\$319,584,000)
	<u>\$325,668,000</u>
General Fund—Private/Local Appropriation	\$300,000
Death Investigations Account—State	
Appropriation	\$261,000
Accident Account—State Appropriation	\$5,937,000
Medical Aid Account—State Appropriation	\$5,960,000
TOTAL APPROPRIATION	(\$643,670,000)
	<u>\$649,754,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,875,000 of the general fund—state appropriation for fiscal year 2004 and \$1,875,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to create a state resource for technology education in the form of an institute located at the University of Washington, Tacoma. The university will continue to provide undergraduate and graduate degree programs meeting regional technology needs including, but not limited to, computing and software systems. As a condition of these appropriations:

(a) The university will work with the state board for community and technical colleges, or individual colleges where necessary, to establish articulation agreements in addition to the existing associate of arts and associate of science transfer degrees. Such agreements shall improve the transferability of students and in particular, students with substantial applied information technology credits.

(b) The university will establish performance measures for recruiting, retaining and graduating students, including nontraditional students, and report back to the governor and legislature by September 2004 as to its progress and future steps.

(2) \$150,000 of the general fund—state appropriation for fiscal year 2004 and \$150,000 of the general fund—state appropriation for fiscal year 2005 are

provided solely for research faculty clusters in the advanced technology initiative program.

(3) The entire death investigations account appropriation is provided for the forensic pathologist fellowship program.

(4) \$150,000 of the general fund—state appropriation for fiscal year 2004 and \$150,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the implementation of the Puget Sound work plan and agency action item UW-01.

(5) \$75,000 of the general fund—state appropriation for fiscal year 2004 and \$75,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the Olympic natural resources center.

(6) \$1,526,000 of the general fund—state appropriation for fiscal year 2004 and \$3,096,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for competitively offered recruitment and retention salary adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

(7) \$1,250,000 of the general fund—state appropriation for fiscal year 2004 and \$1,250,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for state match to attract or retain federal research grants in high demand and technologically advanced fields.

(8) \$300,000 of the general fund—private/local appropriation is provided solely for shellfish biotoxin monitoring as specified in Chapter 263, Laws of 2003 (SSB 6073, shellfish license fee).

(9) \$2,275,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for a proteomics center and an autism center. Of the amount provided in this subsection, \$1,600,000 is provided solely for the University of Washington school of medicine for recruitment of biosciences research faculty to establish a proteomics center and \$675,000 is provided solely as one-time funding to establish an autism center at the University of Washington Tacoma campus. The amount provided for the proteomics center is contingent on receipt of \$6,000,000 in one-time, nonstate matching funds. If the nonstate matching funds are not received by June 30, 2005, \$1,600,000 of the amount provided in this subsection shall lapse.

(10) \$1,897,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the training and support of primary care physicians and primary care providers through the network of family practice residency programs. All of the funding provided in this section shall be distributed directly to the family practice residency programs to assist with cost increases experienced by the programs, including the cost of medical malpractice premiums.

(11) The University of Washington shall present a preliminary report to the fiscal committees of the legislature detailing the use of state research funds by November 1, 2004, and shall present a final report by November 1, 2005. For each research project supported by the state general fund in the 2003-05 biennium, including projects funded in the university's base budget, the report

shall include: (a) A brief description of the research project; (b) the amount of state and institutional funds contributed to the project; (c) the level of federal or other sources of match received for the state's investment; and (d) any other information deemed pertinent by the institution.

(12) By December 15, 2004, the University of Washington Bothell shall submit to the higher education and fiscal committees of the legislature a plan to phase in lower-division courses at the campus. At a minimum, the following issues should be addressed in the plan:

(a) An enrollment plan that provides adequate capacity for community college transfer students;

(b) Appropriate levels of state general fund support and tuition and fees for the campus, commensurate with a role and mission similar to a comprehensive university;

(c) Identification of any start-up costs to implement the phase-in of lower division courses; and

(d) Other issues deemed pertinent by the institution.

*Sec. 603 was partially vetoed. See message at end of chapter.

*Sec. 604. 2003 1st sp.s. c 25 s 605 (uncodified) is amended to read as follows:

FOR WASHINGTON STATE UNIVERSITY

General Fund—State Appropriation (FY 2004) \$185,265,000

General Fund—State Appropriation (FY 2005) ((~~\$189,954,000~~))

\$191,047,000

Washington State University Building Account—

State Appropriation \$150,000

TOTAL APPROPRIATION ((~~\$375,369,000~~))

\$376,462,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$507,000 of the general fund—state appropriation for fiscal year 2004 and \$1,014,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to expand the entering class of veterinary medicine students by 16 full-time equivalent residents each academic year during the 2003-05 biennium.

(2) \$657,000 of the general fund—state appropriation for fiscal year 2004, \$180,000 of the general fund—state appropriation for fiscal year 2005, and the entire Washington state university building account appropriation are provided solely to support the development of a comprehensive viticulture (grape growing) and enology (wine making) higher education program in Washington state. In consideration of these appropriations, the legislature intends to provide ongoing support of not less than \$180,000 a year for extension field personnel and services. The balance of the amount provided from the fiscal year 2004 appropriation is provided on a one-year basis to enable the university to appoint jointly shared faculty between the Pullman main campus and its branch campus in the TriCities. The legislature expects the university to meet ongoing faculty, staff, and related expenses to support the delivery of baccalaureate degree programs in viticulture and enology by making a successful bid for a portion of high-demand enrollment funding that will be distributed on a competitive basis

by the state higher education coordinating board for student instruction pursuant to section 610(3) of this act.

(3) \$675,000 of the general fund—state appropriation for fiscal year 2004 and \$675,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for allocation in full to the branch campus in Vancouver to create and operate a state institute for engineering and science in partnership with Clark and Lower Columbia community colleges and regional industry leaders in southwest Washington. As a condition of this appropriation, the university shall develop and provide to the satisfaction of the office of financial management a business plan for the new institute. The university, together with its two-year college and industry partners, shall provide the governor, legislature, and state higher education coordinating board with an annual summary of its progress to produce more graduates trained in applied science technologies and engineering. Annual reports to inform and advise policymakers of the partners' success, emerging issues, and resource needs if any shall occur by no later than November 15 during the 2003-05 biennium.

(4) \$150,000 of the general fund—state appropriation for fiscal year 2004 and \$150,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for research faculty clusters in the advanced technology initiative program.

(5) \$165,000 of the general fund—state appropriation for fiscal year 2004 and \$166,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the implementation of the Puget Sound work plan and agency action item WSU-01.

(6) \$949,000 of the general fund—state appropriation for fiscal year 2004 and \$1,927,000 of general fund—state appropriation for fiscal year 2005 are provided solely for competitively offered recruitment and retention salary adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

(7) \$50,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for research to develop alternative control mechanisms for burrowing shrimp.

(8) Washington State University shall present a preliminary report to the fiscal committees of the legislature detailing the use of state research funds by November 1, 2004, and shall present a final report by November 1, 2005. For each research project supported by the state general fund in the 2003-05 biennium, including projects funded in the university's base budget, the report shall include: (a) A brief description of the research project; (b) the amount of state and institutional funds contributed to the project; (c) the level of federal or other sources of match received for the state's investment; and (d) any other information deemed pertinent by the institution.

(9)(a) By December 15, 2004, Washington State University Vancouver shall submit to the higher education and fiscal committees of the legislature a plan to phase in lower-division courses at the campus. At a minimum, the following issues should be addressed in the plan:

(i) An enrollment plan that provides adequate capacity for community college transfer students;

(ii) Appropriate levels of state general fund support and tuition and fees for the campus, commensurate with a role and mission that includes an innovative combination of instruction and research suitable for meeting the region's needs for access as well as supporting the expansion of the region's economic viability;

(iii) Capital needs;

(iv) Identification of any start-up costs to implement the phase-in of lower-division courses; and

(v) Other issues deemed pertinent by the institution.

(b) In developing its plan, Washington State University Vancouver shall solicit input from students, local community and technical colleges, the main campus, and community stakeholders such as economic development councils and business and labor leaders.

*Sec. 604 was partially vetoed. See message at end of chapter.

Sec. 605. 2003 1st sp.s. c 25 s 606 (uncodified) is amended to read as follows:

FOR EASTERN WASHINGTON UNIVERSITY

General Fund—State Appropriation (FY 2004)	\$40,861,000
General Fund—State Appropriation (FY 2005)	(\$42,183,000)
	<u>\$42,620,000</u>
TOTAL APPROPRIATION	(\$83,044,000)
	<u>\$83,481,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$248,000 of the general fund—state appropriation for fiscal year 2004 and \$503,000 of general fund—state appropriation for fiscal year 2005 are provided solely for competitively offered recruitment and retention salary adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

Sec. 606. 2003 1st sp.s. c 25 s 607 (uncodified) is amended to read as follows:

FOR CENTRAL WASHINGTON UNIVERSITY

General Fund—State Appropriation (FY 2004)	\$39,765,000
General Fund—State Appropriation (FY 2005)	(\$41,391,000)
	<u>\$42,291,000</u>
TOTAL APPROPRIATION	(\$81,156,000)
	<u>\$82,056,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,050,000 of the general fund—state appropriation for fiscal year 2004 and \$1,050,000 of the general fund—state appropriation for fiscal year 2005 are provided to expand university enrollment by 196 full-time equivalent students.

(2) \$206,000 of the general fund—state appropriation for fiscal year 2004 and \$418,000 of general fund—state appropriation for fiscal year 2005 are provided solely for competitively offered recruitment and retention salary adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

Sec. 607. 2003 1st sp.s. c 25 s 608 (uncodified) is amended to read as follows:

FOR THE EVERGREEN STATE COLLEGE

General Fund—State Appropriation (FY 2004)	(((\$22,881,000))
	<u>\$22,856,000</u>
General Fund—State Appropriation (FY 2005)	(((\$23,618,000))
	<u>\$24,035,000</u>
TOTAL APPROPRIATION	(((\$46,499,000))
	<u>\$46,891,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$124,000 of the general fund—state appropriation for fiscal year 2004 and \$252,000 of general fund—state appropriation for fiscal year 2005 are provided solely for competitively offered recruitment and retention salary adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

(2) The Washington state institute for public policy shall research the following issues and provide reports to the legislature as directed. The institute board shall prioritize and schedule all studies based on staff capacity.

(a) \$110,000 of the general fund—state appropriation for fiscal year 2004 is provided solely for the Washington state institute for public policy to review research assessing the effectiveness of prevention and early intervention programs concerning children and youth, including but not limited to, programs designed to reduce the at-risk behaviors for children and youth identified in RCW 70.190.010(4).

Using this research, the institute shall identify specific research-proven programs that produce a positive return on the dollar compared to the costs of the program. The institute shall also develop criteria designed to ensure quality implementation and program fidelity of research-proven programs in the state. The criteria shall include measures for ongoing monitoring and continual improvement of treatment delivery, and shall be feasible for inclusion in a contract for services. The institute shall develop recommendations for potential state legislation that encourages local government investment in research-proven prevention and early intervention programs by reimbursing local governments for a portion of the savings that accrue to the state as the result of local

investments in such programs. The institute shall present a preliminary report of its findings to the appropriate committees of the legislature by December 1, 2003, and shall present a final report by ~~((March))~~ July 1, 2004.

(b) \$26,000 of the general fund—state appropriation for fiscal year 2004 is provided solely for the Washington state institute for public policy to develop adherence and outcome standards for measuring the effectiveness of treatment programs referred to in Chapter 378, Laws of 2003 (ESSB 5903). The standards shall be developed and presented to the governor and legislature by no later than January 1, 2004.

(c) \$100,000 of the general fund—state appropriation for fiscal year 2004 is provided solely for the Washington state institute for public policy to study the relationship between prison overcrowding and construction, and the current state criminal sentencing structure.

(i) The institute shall determine whether any changes could be made to the current state sentencing structure to address prison overcrowding and the need for new prison construction, giving great weight to the primary purposes of the criminal justice system. These purposes include: Protecting community safety; making frugal use of state and local government resources by concentrating resources on violent offenders and sex offenders who pose the greatest risk to our communities; achieving proportionality in sentencing; and reducing the risk of reoffending by offenders in the community.

(ii) In developing its research plan, the institute may consult with the sentencing guidelines commission, the caseload forecast council, and interested stakeholders.

(iii) The institute for public policy shall present a preliminary report of its findings to the governor and to the appropriate standing committees of the legislature by December 15, 2003, and shall present a final report regarding its findings and recommendations by March 15, 2004.

(d) \$12,000 of the general fund—state appropriation for fiscal year 2004 and \$12,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the Washington state institute for public policy to examine the results of the changes in earned release under Chapter 379, Laws of 2003 (ESSB 5990). The study shall determine whether the changes in earned release affect the rate of recidivism or the type of offenses committed by persons whose release dates were affected by the changes under the bill. The institute shall report its findings to the governor and appropriate committees of the legislature by no later than December 1, 2008.

~~(e) ((\$25,000 of the general fund—state appropriation for fiscal year 2004 and \$25,000))~~ \$65,000 of the general fund—state appropriation for fiscal year 2005 ~~((are))~~ is provided solely for the Washington state institute for public policy to conduct the evaluation outlined in Second Engrossed Substitute Senate Bill No. 5012 or Second Substitute House Bill No. 2295 (charter schools). If ~~((the))~~ neither bill is ~~((not))~~ enacted by June 30, ~~((2003))~~ 2004, the amount~~((s))~~ provided in this subsection shall lapse.

(f) \$150,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the Washington state institute for public policy to implement the study in Engrossed Substitute House Bill No. 2400 (sex crimes against minors). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse. The institute shall conduct the study required by the bill

in a manner that does not duplicate the study required by the sentencing guidelines commission in this act.

(g) \$25,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the Washington state institute for public policy to examine issues related to the state's transitional bilingual education program. The examination shall include, but is not limited to, a review of the following issues: Trends in enrollment and average length of stay in the transitional bilingual program; the different types of programs and delivery methods that exist in Washington state and other states; the academic and language acquisition effectiveness of different types of programs and service delivery methods; the cost benefits of these different types of programs and service delivery methods; and potential changes that would result in more effective program delivery and cost-effectiveness. The office of superintendent of public instruction shall provide technical assistance and needed data to assist in the institute's examination. The institute shall provide a report of its findings to the governor and appropriate committees of the legislature by December 1, 2004.

Sec. 608. 2003 1st sp.s. c 25 s 609 (uncodified) is amended to read as follows:

FOR WESTERN WASHINGTON UNIVERSITY	
General Fund—State Appropriation (FY 2004)	\$53,645,000
General Fund—State Appropriation (FY 2005)	(\$55,537,000)
	<u>\$56,127,000</u>
TOTAL APPROPRIATION	(\$109,182,000)
	<u>\$109,772,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$980,400 of the general fund—state appropriation for fiscal year 2004 and \$980,400 of the general fund—state appropriation for fiscal year 2005 are provided solely for the operations of the North Snohomish, Island, Skagit (NSIS) higher education consortium.

(2) \$248,000 of the general fund—state appropriation for fiscal year 2004 and \$503,000 of general fund—state appropriation for fiscal year 2005 are provided solely for competitively offered recruitment and retention salary adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

***Sec. 609.** 2003 1st sp.s. c 25 s 610 (uncodified) is amended to read as follows:

FOR THE HIGHER EDUCATION COORDINATING BOARD— POLICY COORDINATION AND ADMINISTRATION	
General Fund—State Appropriation (FY 2004)	(\$4,952,000)
	<u>\$4,988,000</u>
General Fund—State Appropriation (FY 2005)	(\$7,716,000)
	<u>\$11,584,000</u>

General Fund—Federal Appropriation	((\$642,000))
	\$649,000
TOTAL APPROPRIATION	(((\$13,310,000)))
	\$17,221,000

The appropriations in this section are provided to carry out the policy coordination, planning, studies and administrative functions of the board and are subject to the following conditions and limitations:

(1) Within the appropriations provided in this section, funds are provided to continue the teacher training pilot program pursuant to chapter 28B.80 RCW until standing authority for this program expires as scheduled on January 1, 2005.

(2) \$175,000 of the general fund—state appropriation for fiscal year 2004 and \$175,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to continue a demonstration project to improve rural access to post-secondary education by bringing distance learning technologies into Jefferson county.

(3) ((~~\$2,755,000~~)) \$2,740,000 of the general fund—state appropriation for fiscal year 2004 and ((~~\$5,520,000~~)) \$9,098,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to contract for ((~~246~~)) 247 full-time equivalent students in high demand fields in fiscal year 2004 and an additional ((~~254~~)) 603 full-time equivalent students in high demand fields in fiscal year 2005. High-demand fields are programs where enrollment access is limited and employers are experiencing difficulty finding qualified graduates to fill job openings. Of the amounts provided, up to \$70,000 may be used for management of the competitive process for awarding high-demand student FTEs during the 2003-05 biennium.

(a) The board will manage a competitive process for awarding high-demand student FTEs. Public baccalaureate institutions and independent four-year institutions are eligible to apply for funding and may submit proposals ((that include cooperative partnerships with private independent institutions)). Independent four-year institutions must comply with standards and reporting requirements established by the board to ensure accountability. Any funding provided to an independent four-year institution is solely for the biennial budget period.

(b) Among coequals, the board shall make it a priority to fund proposals that prepare students for careers in (i) nursing and other health services; (ii) applied science and engineering; (iii) teaching and speech pathology; (iv) computing and information technology; and (v) viticulture and enology, but not to the exclusion of compelling proposals that document specific regional student and employer demand in fields not listed in this subsection. Proposals and grant awards will separately identify one-time, nonrecurring costs and ongoing costs.

(c) The board will establish a proposal review committee that will include, but not be limited to, representatives from the board, the office of financial management, and economic development and labor market analysts. The board will develop the request for proposals, including the criteria for awarding grants, in consultation with the proposal review committee.

(d) Baccalaureate institutions that receive grants shall provide the board and the forecast division of the office of financial management with data specified by

the board or the office of financial management that shows the impact of this subsection, particularly the degree of improved access to high-demand programs for students and successful job placements for graduates. The board will report on the implementation of this subsection by November 1 of each fiscal year to the office of financial management and the fiscal and higher education committees of the legislature.

(4) \$205,000 of the general fund—state appropriation in fiscal year 2005 is provided solely for a comprehensive and ongoing assessment system as outlined in Substitute House Bill No. 3103 (higher education). If the bill is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

(5) \$30,000 of the general fund—state appropriation for fiscal year 2004 and \$70,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to evaluate the policy alternatives described in this subsection.

(a) By December 15, 2004, the board shall provide a report of the evaluation to the governor and the fiscal and higher education committees of the legislature. This evaluation, where appropriate, shall incorporate the analysis and recommendations that are contained in (i) the final strategic master plan for higher education adopted by the board in June 2004 and (ii) the public agenda for higher education as presented and refined by the national collaborative for postsecondary education.

(b) For each policy alternative, the board shall identify:

(i) The implementation costs in the 2005-07, 2007-09, and 2009-11 biennia from both the state general fund and tuition revenue;

(ii) The distribution of enrollments by specific institution, location, and type of program;

(iii) The allocation to high demand and general enrollments;

(iv) The methods of delivery;

(v) The capital facility needs to ensure the physical and quality capacity of the institutions; and

(vi) The funding needs for financial aid and the implications for students depending on whether these needs are met.

(c) The policy alternatives to be evaluated shall include, but are not limited to:

(i) Current participation and distribution of enrollments by institution and sector are maintained; general fund subsidy and total funding increase at the rate of the consumer price index; no capital funding is provided to increase capacity; and the state need grant policies are maintained;

(ii) Graduation rates and participation rates are in the top quarter of all states, overall and within each sector, such as community colleges, comprehensive universities, and research universities; enrollments are distributed to sectors and locations based upon population demand, and include evaluation of demand in Puget Sound and southwest Washington; the state general fund subsidy increases to pay for new enrollments at peer averages; total funding increases to peer averages, capital funding increases to meet growth, and current state need grant practices are maintained;

(iii) Graduation rates and participation rates are in the top quarter of all states, overall and within each sector; enrollments are distributed to sectors and locations based upon population demand, and include evaluation of demand in Puget Sound and southwest Washington; state general fund increases pay for

estimated increases in financial need; total funding increases to peer averages, capital funding increases to meet growth, and current state need grant practices are maintained, plus state funding to meet increased need;

(iv) The tuition levels necessary to achieve total funding per student to average level in other states;

(v) Financial aid increases so that half of all students are able to graduate debt free based on information provided to the institutions of higher education, and, for those who have loan repayment obligations, the obligations do not exceed 10 percent of graduates' average annual post-graduation income; and

(vi) Engaging private independent colleges by replacing the state general fund subsidy for public institutions with vouchers, which students may use at any accredited higher education institution.

(d) In evaluating these policy alternatives, the board shall construct a simulation model of the impacts and costs. The purpose of the model is to assist the legislature and governor in evaluating various investment alternatives. The board shall consult with the office of financial management, staff of the legislative fiscal and higher education committees, and public and private higher education institutions to refine the policy alternatives and delineate the content of the model. The public institutions, the office of financial management, and the legislative evaluation and accountability program committee shall cooperate with the board in providing information to construct the model. The model shall be operational by December 15, 2004.

(e) The governor's office, with assistance from the higher education coordinating board, may create a prototype of a research university performance contract.

(i) The prototype performance contract shall, at a minimum: (A) Reflect statewide goals and priorities of the legislature; (B) contain goals and commitments from both the institutions and the state; (C) include quantifiable performance measures and benchmarks; (D) identify specific resources needed to implement the contract; (E) and include any other information deemed pertinent by the governor.

(ii) By December 1, 2004, the governor shall submit to the higher education and fiscal committees of the legislature the prototype performance contract, including any implementing legislation.

*Sec. 609 was partially vetoed. See message at end of chapter.

*Sec. 610. 2003 1st sp.s. c 25 s 611 (uncodified) is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD—
FINANCIAL AID AND GRANT PROGRAMS**

General Fund—State Appropriation (FY 2004)	(\$145,217,000)
	\$145,228,000
General Fund—State Appropriation (FY 2005)	(\$154,412,000)
	\$163,345,000
General Fund—Federal Appropriation	(\$7,530,000)
	\$7,537,000
TOTAL APPROPRIATION	(\$307,159,000)
	\$316,110,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$259,000 of the general fund—state appropriation for fiscal year 2004 and \$273,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the western interstate commission for higher education.

(2) \$1,100,000 of the general fund—state appropriation for fiscal year 2004 and (~~(\$1,100,000)~~) \$3,100,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the health professional conditional scholarship and loan program under chapter 28B.115 RCW. This amount shall be deposited to the health professional loan repayment and scholarship trust fund to carry out the purposes of the program.

(3) \$75,000 of the general fund—state appropriation for fiscal year 2004 and \$75,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for higher education student child care matching grants under chapter 28B.135 RCW.

(4) \$25,000 of the general fund—state appropriation for fiscal year 2004 and \$25,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the benefit of students who participate in college assistance migrant programs (CAMP) operating in Washington state. To ensure timely state aid, the board may establish a date after which no additional grants would be available for the 2003-04 and 2004-05 academic years. The board shall disperse grants in equal amounts to eligible post-secondary institutions so that state money in all cases supplements federal CAMP awards.

(5) \$111,628,000 of the general fund—state appropriation for fiscal year 2004 and (~~(\$120,420,000)~~) \$124,901,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the state need grant program. After April 1 of each fiscal year, up to one percent of the annual appropriation for the state need grant program may be transferred to the state work study program.

(6) \$17,048,000 of the general fund—state appropriation for fiscal year 2004 and \$17,048,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the state work study program. After April 1 of each fiscal year, up to one percent of the annual appropriation for the state work study program may be transferred to the state need grant program. In addition to the administrative allowance in subsection (12) of this section, four percent of the general fund—state amount in this subsection may be expended for state work study program administration.

(7) \$2,867,000 of the general fund—state appropriation for fiscal year 2004 and \$2,867,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for educational opportunity grants pursuant to Chapter 233, Laws of 2003 (ESB 5676). The board may deposit sufficient funds from its appropriation into the state education trust fund as established in RCW 28B.10.821 to provide a one-year renewal of the grant for each new recipient of the educational opportunity grant award.

(8) \$1,919,000 of the general fund—state appropriation for fiscal year 2004 and \$2,155,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement the Washington scholars program. Any Washington scholars program moneys not awarded by April 1st of each year

may be transferred by the board to the Washington award for vocational excellence.

(9) \$794,000 of the general fund—state appropriation for fiscal year 2004 and \$845,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement Washington award for vocational excellence program. Any Washington award for vocational program moneys not awarded by April 1st of each year may be transferred by the board to the Washington scholars program.

(10) \$246,000 of the general fund—state appropriation for fiscal year 2004 and \$246,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for community scholarship matching grants of \$2,000 each. To be eligible for the matching grant, a nonprofit community organization organized under section 501(c)(3) of the internal revenue code must demonstrate that it has raised \$2,000 in new moneys for college scholarships after the effective date of this act. An organization may receive more than one \$2,000 matching grant and preference shall be given to organizations affiliated with the citizens' scholarship foundation.

(11) Subject to state need grant service requirements pursuant to chapter 28B.119 RCW, \$6,050,000 of the general fund—state appropriation for fiscal year 2004 and (~~(\$6,050,000)~~) \$8,390,000 of the general fund—state appropriation for fiscal year 2005 are provided *solely for the Washington promise scholarship program. For fiscal year 2005, the income eligibility for the graduating high school class of 2004 shall not exceed one hundred twenty percent of the state median family income adjusted for family size. The income eligibility for the graduating high school class of 2003 shall be retained at one hundred thirty-five percent of the state median family income adjusted for family size.*

(12) (~~(\$2,667,000)~~) \$2,678,000 of the general fund—state appropriation for fiscal year 2004 and (~~(\$2,768,000)~~) \$2,820,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for financial aid administration, in addition to the four percent cost allowance provision for state work study under subsection (6) of this section. These funds are provided to administer all the financial aid and grant programs assigned to the board by the legislature and administered by the agency. To the extent the executive director finds the agency will not require the full sum provided in this subsection, a portion may be transferred to supplement financial grants-in-aid to eligible clients after notifying the board and the office of financial management of the intended transfer.

(13) \$539,000 of the general fund—state appropriation for fiscal year 2004 and \$540,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the displaced homemakers program.

*Sec. 610 was partially vetoed. See message at end of chapter.

PART VII SPECIAL APPROPRIATIONS

Sec. 701. 2003 1st sp.s. c 25 s 701 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR DEBT SUBJECT TO THE DEBT LIMIT

General Fund—State Appropriation (FY 2004)	(((\$570,186,000))
	<u>\$655,886,000</u>
General Fund—State Appropriation (FY 2005)	(((\$626,814,000))
	<u>\$528,766,000</u>
Debt-Limit General Fund Bond Retirement Account—	
State Appropriation	(((\$10,000,000))
	<u>\$17,300,000</u>
State Building Construction Account—State	
Appropriation	(((\$7,014,000))
	<u>\$8,922,000</u>
Debt-Limit Reimbursable Bond Retirement Account—	
State Appropriation	\$2,587,000
State Taxable Building Construction Account—	
State Appropriation	(((\$322,000))
	<u>\$465,000</u>
<u>Gardner-Evans Higher Education Construction Account—</u>	
State Appropriation	\$2,087,000
TOTAL APPROPRIATION	(((\$1,216,923,000))
	<u>\$1,216,013,000</u>

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriations are for deposit into the debt-limit general fund bond retirement account. The appropriation for fiscal year 2004 shall be deposited in the debt-limit general fund bond retirement account by June 30, 2004.

Sec. 702. 2003 1st sp.s. c 25 s 703 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED AS PRESCRIBED BY STATUTE

General Fund—State Appropriation (FY 2004)	\$26,394,000
General Fund—State Appropriation (FY 2005)	\$24,805,000
Capitol Historic District Construction	
Account—State Appropriation	(((\$299,000))
	<u>\$323,000</u>
Higher Education Construction Account—State	
Appropriation	\$238,000
State Vehicle Parking Account—State	
Appropriation	\$102,000
Nondebt-Limit Reimbursable Bond Retirement Account—	
State Appropriation	\$128,375,000
TOTAL APPROPRIATION	(((\$180,213,000))
	<u>\$180,237,000</u>

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriation is for deposit into the nondebt-limit general fund bond retirement account.

Sec. 703. 2003 1st sp.s. c 25 s 704 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES

General Fund—State Appropriation (FY 2004)	\$526,000
General Fund—State Appropriation (FY 2005)	\$526,000
Higher Education Construction Account—State Appropriation	\$35,000
State Building Construction Account—State Appropriation	(\$2,032,000)
	<u>\$2,083,000</u>
State Vehicle Parking Account—State Appropriation	\$17,000
Capitol Historic District Construction Account—State Appropriation	\$45,000
State Taxable Building Construction Account— State Appropriation	(\$50,000)
	<u>\$60,000</u>
<u>Gardner-Evans Higher Education Construction Account—</u> State Appropriation	<u>\$180,000</u>
TOTAL APPROPRIATION	(\$3,231,000)
	<u>\$3,472,000</u>

Sec. 704. 2003 1st sp.s. c 25 s 709 (uncodified) is amended to read as follows:

FOR THE GOVERNOR—COMPENSATION—INSURANCE BENEFITS

General Fund—State Appropriation (FY 2004)	\$8,243,000
General Fund—State Appropriation (FY 2005)	(\$38,879,000)
	<u>\$33,909,000</u>
Dedicated Funds and Accounts Appropriation	(\$41,232,000)
	<u>\$38,822,000</u>
TOTAL APPROPRIATION	(\$88,354,000)
	<u>\$80,974,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation from dedicated funds and accounts shall be made in the amounts specified and from the dedicated funds and accounts specified in (a) LEAP document 2003-38, a computerized tabulation developed by the legislative evaluation and accountability program committee on June 2, 2003, and (b) LEAP document 2004-38 dated March 10, 2004, which ~~((is))~~ are hereby incorporated by reference. The office of financial management shall allocate the moneys appropriated in this section in the amounts specified and to the state agencies specified in LEAP document 2003-38 and LEAP document 2004-38, and adjust appropriation schedules accordingly.

(2)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed \$504.89 per eligible employee for fiscal year 2004, and (~~(\$592.30)~~) \$584.58 for fiscal year 2005.

(b) Within the rates in (a) of this subsection, \$4.13 per eligible employee shall be included in the employer funding rate for fiscal year 2004, and \$2.11 per eligible employee shall be included in the employer funding rate for fiscal year 2005, solely to increase life insurance coverage in accordance with a court approved settlement in *Burbage et al. v. State of Washington* (Thurston county superior court cause no. 94-2-02560-8).

(c) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065.

(d) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(3) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for parts A and B of medicare, pursuant to RCW 41.05.085. From January 1, 2004, through December 31, 2004, the subsidy shall be \$102.35. Starting January 1, 2005, the subsidy shall be \$116.19 per month.

(4) Technical colleges, school districts, and educational service districts shall remit to the health care authority for deposit into the public employees' and retirees' insurance account established in RCW 41.05.120 the following amounts:

(a) For each full-time employee, \$42.76 per month beginning September 1, 2003, and (~~(\$49.14)~~) \$45.50 beginning September 1, 2004;

(b) For each part-time employee who, at the time of the remittance, is employed in an eligible position as defined in RCW 41.32.010 or 41.40.010 and is eligible for employer fringe benefit contributions for basic benefits, \$42.76 each month beginning September 1, 2003, and (~~(\$49.14)~~) \$45.50 beginning September 1, 2004, prorated by the proportion of employer fringe benefit contributions for a full-time employee that the part-time employee receives.

The remittance requirements specified in this subsection shall not apply to employees of a technical college, school district, or educational service district who purchase insurance benefits through contracts with the health care authority.

(5) The appropriations in this section include amounts sufficient to fund health benefits for ferry workers at the premium levels specified in subsection (2) of this section, consistent with the 2003-2005 transportation appropriations act.

Sec. 705. 2003 1st sp.s. c 25 s 712 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—EDUCATION TECHNOLOGY REVOLVING ACCOUNT

General Fund—State Appropriation (FY 2004)	\$10,468,000
General Fund—State Appropriation (FY 2005)	(\$10,468,000)
	<u>\$9,264,000</u>
TOTAL APPROPRIATION	(\$20,936,000)
	<u>\$19,732,000</u>

The appropriations in this section are subject to the following conditions and limitations: The appropriation in this section is for appropriation to the education technology revolving account for the purpose of covering operational and transport costs incurred by the K-20 educational network program in providing telecommunication services to network participants.

Sec. 706. 2003 1st sp.s. c 25 s 715 (uncodified) is amended to read as follows:

INCREASED FEDERAL ASSISTANCE. (1) If the department of social and health services or the department of veterans affairs receives federal funding to enhance the federal medical assistance percentage for the 2001-2003 (~~or 2003-2005 fiscal biennia~~) biennium as a result of the jobs and growth tax relief reconciliation act of 2003 (P.L. 108-27), the moneys shall be expended as an unanticipated receipt under RCW 43.79.270 and 43.79.280, subject to the following conditions and limitations:

- (a) The moneys shall be expended in the manner required by the federal act;
- (b) The federal moneys shall be expended in a manner that will maximize the conservation of state moneys, which shall be placed in reserve status and remain unexpended; and

(c) The director of financial management shall notify the appropriate legislative fiscal committees of proposed allotment modifications prior to expenditure of the federal moneys.

(2) If the state receives federal funding for the 2001-2003 or 2003-2005 fiscal biennia as a result of the jobs and growth tax relief reconciliation act of 2003 (P.L. 108-27) in addition to the funding described in subsection (1) of this section, the moneys may be expended as an unanticipated receipt under RCW 43.79.270 and 43.79.280, subject to the following conditions and limitations:

- (a) The moneys shall be expended in the manner required by the federal act;
- (b) The federal moneys shall be expended for necessary state services and in a manner that will maximize the conservation of state moneys, which shall be placed in reserve status and remain unexpended; and

(c) The director of financial management shall notify the appropriate legislative fiscal committees of proposed allotment modifications prior to expenditure of the federal moneys.

Sec. 707. 2003 1st sp.s. c 25 s 718 (uncodified) is amended to read as follows:

AGENCY EXPENDITURES FOR TORT LIABILITY.

<u>General Fund—State Appropriation (FY 2005)</u>	<u>(\$10,638,000)</u>
<u>Dedicated Funds and Accounts Appropriation</u>	<u>(\$4,317,000)</u>
<u>TOTAL APPROPRIATION</u>	<u>(\$14,955,000)</u>

The appropriations in this section are subject to the following conditions and limitations: The office of financial management shall ((reduce allotments for all agencies by \$10,638,000 from 2003-05 biennial general fund appropriations in this act)) update agency appropriation schedules to reflect the reduction in contributions to the liability account((The general fund allotment reduction shall be placed in unallotted status and remain unexpended)) as identified by agency and account in LEAP document 2004-05 dated February 21, 2004, which is hereby incorporated by reference.

NEW SECTION. Sec. 708. A new section is added to 2003 1st sp.s. c 25 (uncodified) to read as follows:

AGENCY EXPENDITURES FOR TORT LIABILITY. The office of financial management shall reduce allotments for all agencies by \$1,203,000 from fiscal year 2005 general fund—state appropriations in this act to reflect the reduction in state tort expenses. The general fund allotment reduction shall be placed in unallotted status and remain unexpended.

Sec. 709. 2003 1st sp.s. c 25 s 723 (uncodified) is amended to read as follows:

FOR SUNDRY CLAIMS. The following sums, or so much thereof as may be necessary, are appropriated from the general fund, unless otherwise indicated, for relief of various individuals, firms, and corporations for sundry claims. These appropriations are to be disbursed on vouchers approved by the director of ((general administration)) the office of financial management, except as otherwise provided, as follows:

(1) Reimbursement of criminal defendants acquitted on the basis of self-defense, pursuant to RCW 9A.16.110:

- (a) Kelly C. Schwartz, claim number SCJ 03-10. \$18,250
- (b) Clinton Johnston, claim number SCJ 04-02. \$8,225
- (c) Johnny Riley, claim number SCJ 04-05 \$1,500
- (d) Gregory Nichols, claim number SCJ 04-06 \$3,995
- (e) William Poll, claim number SCJ 04-07 \$31,106
- (f) John Obert, claim number SCJ 04-09 \$15,957
- (g) David McCown, claim number SCJ 04-10 \$2,900

(2) Payment from the state wildlife account for damage to crops by wildlife, pursuant to RCW 77.36.050:

- (a) Circle S Landscape Supplies, claim number SCG 03-05 \$49,380
- (b) Marilyn Lund Farms, claim number SCG 03-08 \$17,175
- (c) Paul Gibbons, claim number SCG 03-09 \$12,414
- (d) Bud Hamilton, claim number SCG 03-10 \$15,591
- (e) Richard Anderson, claim number SCG 03-11 \$75,933
- (f) Neil Ice, claim number SCG 03-12 \$73,474
- (g) Carl Anderson, claim number SCG 03-13 \$120,943
- (h) Lafe Wilson, claim number SCG 04-02. \$626
- (i) Richard Anderson, claim number SCG 04-04 \$28,998

NEW SECTION. Sec. 710. A new section is added to 2003 1st sp.s. c 25 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—HELP AMERICA VOTE ACT

General Fund—State Appropriation (FY 2004) \$3,140,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for deposit in the state election account.

NEW SECTION. Sec. 711. A new section is added to 2003 1st sp.s. c 25 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT— CONTRIBUTIONS TO RETIREMENT SYSTEMS

General Fund—State Appropriation (FY 2005)	\$150,000
General Fund—Federal Appropriation	\$25,000
General Fund—Private/Local Appropriation	\$3,000
Special Account Retirement Contribution Increase	
Revolving Account Appropriation	\$100,000
TOTAL APPROPRIATION	\$278,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations in this section are provided solely to increase agency and institution appropriations to reflect a 0.01 percent increase in employer pension contributions to the public employees' retirement system and the teachers' retirement system required to implement House Bill No. 2538 (\$1000 minimum benefit). If the bill is not enacted by June 30, 2004, the appropriations provided in this section shall lapse.

(2) The appropriations from dedicated funds and accounts shall be made in the amounts specified and from the dedicated funds and accounts specified in LEAP document 2004-39, a computerized tabulation developed by the legislative evaluation and accountability program committee on March 8, 2004, which is hereby incorporated by reference. The office of financial management shall allocate the moneys appropriated in this section in the amounts specified and to the state agencies specified in LEAP document 2004-39, and adjust appropriation schedules accordingly.

NEW SECTION. Sec. 712. A new section is added to 2003 1st sp.s. c 25 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—MADER LAWSUIT SETTLEMENT

General Fund—State Appropriation (FY 2005) \$11,000,000

The appropriation in this section is provided solely for the purposes of settling all claims in *Mader et al. v. Health Care Authority and State of Washington* (cause number 98-2-30850-8SEA). The expenditure of this appropriation is contingent on the release of all claims in the case, and total settlement costs shall not exceed the appropriation in this section.

If settlement is not executed by June 30, 2004, the appropriation in this section shall lapse.

NEW SECTION. Sec. 713. A new section is added to 2003 1st sp.s. c 25 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT— EXTRAORDINARY CRIMINAL JUSTICE COSTS

General Fund—State Appropriation (FY 2004) \$954,000

The appropriation in this section is subject to the following conditions and limitations: The director of financial management shall distribute the appropriation to the following counties in the amounts designated for extraordinary criminal justice costs:

King \$807,000
Pacific \$147,000

NEW SECTION. Sec. 714. A new section is added to 2003 1st sp.s. c 25 (uncodified) to read as follows:

FOR THE OFFICE OF THE GOVERNOR—JOINT TASK FORCE ON MENTAL HEALTH

General Fund—State Appropriation (FY 2005) \$50,000
General Fund—Federal Appropriation \$30,000
TOTAL APPROPRIATION \$80,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations are provided solely for a joint legislative and executive task force on mental health services delivery and financing. The joint task force shall consist of eight members, as follows: The secretary of the department of social and health services or his or her designee; the president of the Washington state association of counties or his or her designee; a representative from the governor's office; two members of the senate appointed by the president of the senate, one of whom shall be a member of the majority caucus and one of whom shall be a member of the minority caucus; two members of the house of representatives appointed by the speaker of the house of representatives, one of whom shall be a member of the majority caucus and one of whom shall be a member of the minority caucus; and the chair of the joint legislative audit and review committee or his or her designee. Staff support for the joint task force shall be provided by the office of financial management, the house of representatives office of program research, and senate committee services.

(2) The joint task force may create advisory committees to assist the joint task force in its work.

(3) Joint task force members may be reimbursed for travel expenses as authorized under RCW 43.03.050 and 43.03.060 and chapter 44.04 RCW, as appropriate. Advisory committee members, if appointed, shall not receive compensation or reimbursement for travel or expenses.

(4) The joint task force shall assess and make recommendations related to:

(a) Progress made by the department of social and health services and the regional support networks (i) towards implementation of a performance-based measurement system that focuses on outcomes for consumers served by the mental health system, and (ii) to reduce duplicative and burdensome administrative and oversight requirements;

(b) The funding requirements for mental health services for nonmedicaid consumers for the priority populations under chapter 71.24 RCW;

(c) The extent to which the current funding distribution methodology achieves equity in funding and access to services for mental health services consumers;

(d) The administrative structure of the community mental health system as it relates to effectively meeting the goals established in statute;

(e) The most effective and efficient mental health funding and payment models (including capitated managed care), in light of requirements of the federal balanced budget act of 1997 related to state medicaid managed care contracting; and

(f) The types, numbers, and locations of inpatient psychiatric hospital and community residential beds in both the private and public sector.

(5) The joint task force shall report its initial findings and recommendations to the governor and appropriate committees of the legislature by January 1, 2005, and its final findings and recommendations by June 30, 2005.

Sec. 715. 2003 1st sp.s. c 25 s 710 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF RETIREMENT SYSTEMS— CONTRIBUTIONS TO RETIREMENT SYSTEMS. The appropriations in this section are subject to the following conditions and limitations: The appropriations for the law enforcement officers' and firefighters' retirement system shall be made on a monthly basis beginning July 1, 2003, consistent with chapter 41.45 RCW, and the appropriations for the judges and judicial retirement systems shall be made on a quarterly basis consistent with chapters 2.10 and 2.12 RCW.

(1) There is appropriated for state contributions to the law enforcement officers' and fire fighters' retirement system:

General Fund—State Appropriation (FY 2004)	(\$21,256,000))
	<u>\$20,256,000</u>
General Fund—State Appropriation (FY 2005)	(\$20,914,000))
	<u>\$21,414,000</u>

(2) There is appropriated for contributions to the judicial retirement system:

General Fund—State Appropriation (FY 2004)	(\$6,000,000))
	<u>\$5,995,000</u>
General Fund—State Appropriation (FY 2005)	(\$6,000,000))
	<u>\$5,995,000</u>

(3) There is appropriated for contributions to the judges retirement system:

General Fund—State Appropriation (FY 2004)	\$500,000
General Fund—State Appropriation (FY 2005)	\$500,000
TOTAL APPROPRIATION	(\$55,170,000))
	<u>\$54,660,000</u>

Sec. 716. 2003 1st sp.s. c 25 s 720 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT—COUNTY ASSISTANCE

General Fund—Federal Appropriation	\$5,000,000
General Fund—State Appropriation (FY 2005)	<u>\$4,000,000</u>

TOTAL APPROPRIATION \$9,000,000

The appropriations in this section are subject to the following conditions and limitations: The director of community, trade, and economic development shall distribute the appropriations in this section to the following counties in the amounts designated:

	FY 2004	FY 2005
Adams	\$334,400	<u>\$267,520</u>
Asotin	\$361,900	<u>\$289,520</u>
Columbia	\$679,700	<u>\$543,760</u>
Douglas	\$264,000	<u>\$211,200</u>
Ferry	\$283,600	<u>\$226,880</u>
Garfield	\$759,800	<u>\$607,840</u>
Island	\$66,400	<u>\$53,120</u>
Lincoln	\$297,700	<u>\$238,160</u>
Mason	\$298,000	<u>\$238,400</u>
Okanogan	\$280,000	<u>\$224,000</u>
Pacific	\$89,700	<u>\$71,760</u>
Pend Oreille	\$181,600	<u>\$145,280</u>
Skamania	\$88,000	<u>\$70,400</u>
Stevens	\$418,000	<u>\$334,400</u>
Wahkiakum	\$452,900	<u>\$362,320</u>
Walla Walla	\$144,300	<u>\$115,440</u>
TOTAL		
APPROPRIATIONS	\$5,000,000	<u>\$4,000,000</u>

**NEW SECTION. Sec. 717. A new section is added to 2003 1st sp.s. c 25 (uncodified) to read as follows:*

AGENCY EXPENDITURES FOR TRAVEL, EQUIPMENT, AND CONTRACTS. *The office of financial management shall reduce allotments for all agencies for personal service contracts, equipment, and travel by \$11,400,000 from fiscal year 2005 general fund—state appropriations in this act to reflect the elimination of expenditures identified in LEAP document 2004-32, a computerized tabulation developed by the legislative evaluation and accountability program committee on January 23, 2004. The general fund allotment reduction shall be placed in unallotted status and remain unexpended.*

*Sec. 717 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 718. A new section is added to chapter 43.330 RCW to read as follows:

HOMELESS FAMILIES SERVICES FUND. (1)(a) There is created in the custody of the state treasurer an account to be known as the homeless families services fund. Revenues to the fund consist of a one-time appropriation

by the legislature, private contributions, and all other sources deposited in the fund.

(b) Expenditures from the fund may only be used for the purposes of the program established in this section, including administrative expenses. Only the director of the department of community, trade, and economic development, or the director's designee, may authorize expenditures.

(c) Expenditures from the fund are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. However, money used for program administration by the department is subject to the allotment and budgetary controls of chapter 43.88 RCW, and an appropriation is required for these expenditures.

(2) The department may expend moneys from the fund to provide state matching funds for housing-based supportive services for homeless families over a period of at least ten years.

(3) Activities eligible for funding through the fund include, but are not limited to, the following:

- (a) Case management;
- (b) Counseling;
- (c) Referrals to employment support and job training services and direct employment support and job training services;
- (d) Domestic violence services and programs;
- (e) Mental health treatment, services, and programs;
- (f) Substance abuse treatment, services, and programs;
- (g) Parenting skills education and training;
- (h) Transportation assistance;
- (i) Child care; and
- (j) Other supportive services identified by the department to be an important link for housing stability.

(4) Organizations that may receive funds from the fund include local housing authorities, nonprofit community or neighborhood-based organizations, public development authorities, federally recognized Indian tribes in the state, and regional or statewide nonprofit housing assistance organizations.

**PART VIII
OTHER TRANSFERS AND APPROPRIATIONS**

Sec. 801. 2003 1st sp.s. c 25 s 801 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

General Fund Appropriation for fire insurance premium distributions	(((\$4,711,500)) <u>\$5,344,000</u>)
General Fund Appropriation for public utility district excise tax distributions	(((\$39,273,684)) <u>\$40,012,876</u>)
General Fund Appropriation for prosecuting attorney distributions	(((\$3,441,197)) <u>\$3,671,015</u>)

General Fund Appropriation for boating safety and education distributions	(((\$4,074,300)) <u>\$4,147,426</u>)
General Fund Appropriation for other tax distributions	\$34,750
Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies	\$2,123,723
Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution	\$187,068
Timber Tax Distribution Account Appropriation for distribution to "timber" counties	\$51,192,170
County Criminal Justice Assistance Appropriation	(((\$52,131,000)) <u>\$53,130,820</u>)
Municipal Criminal Justice Assistance Appropriation	(((\$21,069,000)) <u>\$21,069,120</u>)
Liquor Excise Tax Account Appropriation for liquor excise tax distribution	\$32,624,831
Liquor Revolving Account Appropriation for liquor profits distribution	(((\$57,511,693)) <u>\$57,369,693</u>)
TOTAL APPROPRIATION	(((\$268,374,916)) <u>\$270,907,492</u>)

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

*Sec. 802. 2003 1st sp.s. c 25 s 805 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—TRANSFERS. For transfers in this section to the state general fund, pursuant to RCW 43.135.035(5), the state expenditure limit shall be increased by the amount of the transfer. The increase shall occur in the fiscal year in which the transfer occurs.

State Convention and Trade Center Account: For transfer to the state general fund	\$10,000,000
County Sale/Use Tax Equalization Account: For transfer to the state general fund for fiscal year 2004	\$74,000
Financial Services Regulation Fund: For transfer to the state general fund at the beginning of fiscal year 2005	(((\$1,632,000)) <u>\$7,285,000</u>)
Municipal Sale/Use Tax Equalization Account: For transfer to the state general fund for fiscal year 2004	\$374,000

Asbestos Account: For transfer to the state general fund	\$200,000
Electrical License Account: For transfer to the state general fund	\$7,000,000
Local Toxics Control Account: For transfer to the state toxics control account	\$4,059,000
Pressure Systems Safety Account: For transfer to the state general fund	\$1,000,000
Health Services Account: For transfer to the water quality account	\$8,182,000
State Treasurer's Service Account: For transfer to the general fund	(((\$10,000,000)) <u>\$14,000,000</u>)
Public Works Assistance Account: For transfer to the drinking water assistance account	\$8,387,000
Tobacco Settlement Account: For transfer to the health services account, in an amount not to exceed the actual balance of the tobacco settlement account	(((\$185,000,000)) <u>\$181,000,000</u>)
Health Service Account: For transfer to the violence reduction and drug enforcement account	\$7,789,000
Nisqually Earthquake Account: For transfer to the disaster response account	\$6,200,000
Industrial Insurance Premium Refund Account: For transfer to the state general fund	\$577,000
Public Service Revolving Account: For transfer to the state general fund	\$1,600,000
State Forest Nursery Revolving Account: For transfer to the state general fund, \$250,000 for fiscal year 2004 and \$250,000 for fiscal year 2005	\$500,000
Flood Control Assistance Account: For transfer to the state general fund, \$1,350,000 for fiscal year 2004 and \$1,350,000 for fiscal year 2005	\$2,700,000
Water Quality Account: For transfer to the water pollution control account	(((\$10,500,000)) <u>\$14,034,513</u>)
General Fund: For transfer to the water quality account, \$3,870,000 for fiscal year 2004 and \$4,557,000 for fiscal year 2005	\$8,427,000
Insurance Commissioner's Regulatory Account: For transfer to the state general fund	(((\$1,500,000)) <u>\$2,500,000</u>)
Health Services Account: For transfer to the tobacco prevention and control account	(((\$24,216,000)) <u>\$23,796,000</u>)

From the Emergency Reserve Fund: For transfer to the state general fund, not to exceed the actual balance of the emergency reserve fund. This transfer is intended to liquidate the emergency reserve fund ((\$59,350,000))
\$58,100,000

Department of Retirement Systems Expense Account:
 For transfer to the state general fund ((\$1,500,000))
\$5,500,000

Woodstove Education and Enforcement Account:
 For transfer to the air pollution control account \$600,000

Multimodal Transportation Account: For transfer to the air pollution control account for fiscal year 2004. The amount transferred shall be deposited into the segregated subaccount of the air pollution control account created in Engrossed Substitute Senate Bill No. 6072, chapter 264, Laws of 2003. The state treasurer shall perform the transfer from the multimodal transportation account to the air pollution control subaccount on a quarterly basis \$4,170,726

Multimodal Transportation Account: For transfer to the vessel response account for fiscal year 2004 \$1,213,704

Resource Management Cost Account: For transfer to the contract harvesting revolving account \$250,000

Forest Development Account: For transfer to the contract harvesting revolving account \$250,000

Site Closure Account: For transfer to the state general fund \$13,800,000

Health Services Account: For transfer to the general fund—state for fiscal year 2005 ((\$1,250,000))
\$46,250,000

K-20 Technology Account: For transfer to the state general fund \$1,281

Gambling Revolving Fund, Nontribal Sources: For transfer to the state general fund \$2,500,000

State Building Construction Account: For transfer to the conservation assistance revolving account \$500,000

Wildlife Account: For transfer to the special wildlife account, \$250,000 in fiscal year 2004 and \$250,000 in fiscal year 2005 \$500,000

Education Technology Revolving Account: For transfer to the data processing revolving account \$296,000

Digital Government Revolving Account: For transfer to the data processing revolving account \$154,000

Gambling Revolving Fund: For transfer to the problem gambling treatment account. If Second Substitute

House Bill No. 2776 is not enacted by June 30, 2004,
this amount shall be transferred to the general

fund..... \$500,000

*Sec. 802 was partially vetoed. See message at end of chapter.

Sec. 803. 2003 1st sp.s. c 25 s 806 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—TRANSFERS

General Fund—State Appropriation: For
transfer to the department of retirement
systems expense account: For the
administrative expenses of the judicial
retirement system. ((~~\$21,901~~))
\$12,000

**PART IX
MISCELLANEOUS**

NEW SECTION. Sec. 901. A new section is added to 2003 1st sp.s. c 25 (uncodified) to read as follows:

FUND BALANCE TRANSFER. At the end of fiscal year 2004, the office of financial management shall transfer to the general fund-state fund balance the unspent federal fiscal relief grant moneys received as a result of P.L. 108-27 (federal jobs and growth tax relief reconciliation act of 2003). Pursuant to RCW 43.135.035(5), the state expenditure limit shall be increased by the amount of the transfer.

NEW SECTION. Sec. 902. A new section is added to 2003 1st sp.s. c 25 (uncodified) to read as follows:

AGENCY EXPENDITURES FOR MOTOR VEHICLES. The use of hybrid motor vehicles reduces air contaminants, greenhouse gas emissions and reliance on imported sources of petroleum. To foster the use of hybrid motor vehicles, beginning July 1, 2004, before the purchase or lease of a motor vehicle, state agencies should first consider the feasibility of hybrid motor vehicles. State agencies should strive to purchase or lease a hybrid motor vehicle when the use of such vehicle is consistent with and can accomplish the agency's mission and when the purchase is financially reasonable. The financial assessment should include savings accruing from reduced fuel purchases over the life of the vehicle. Agencies shall report on their purchases of hybrid vehicles in their biennial sustainability plans as required under executive order 02-03.

Sec. 903. RCW 9.46.100 and 2002 c 371 s 901 are each amended to read as follows:

There is hereby created the gambling revolving fund which shall consist of all moneys receivable for licensing, penalties, forfeitures, and all other moneys, income, or revenue received by the commission. The state treasurer shall be custodian of the fund. All moneys received by the commission or any employee thereof, except for change funds and an amount of petty cash as fixed by rule or regulation of the commission, shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the gambling revolving fund. Disbursements from the revolving fund

shall be on authorization of the commission or a duly authorized representative thereof. In order to maintain an effective expenditure and revenue control the gambling revolving fund shall be subject in all respects to chapter 43.88 RCW but no appropriation shall be required to permit expenditures and payment of obligations from such fund. All expenses relative to commission business, including but not limited to salaries and expenses of the director and other commission employees shall be paid from the gambling revolving fund.

During the ~~((2001-))~~2003-2005 fiscal biennium, the legislature may transfer from the gambling revolving fund to the problem gambling treatment account, contingent on enactment of chapter ... Laws of 2004 (Second Substitute House Bill No. 2776, problem gambling treatment). Also during the 2003-2005 fiscal biennium, the legislature may transfer from the gambling revolving fund to the state general fund such amounts as reflect the excess nontribal fund balance of the fund ~~((and reductions made by the 2002 supplemental appropriations act for administrative efficiencies and savings))~~. The commission shall not increase fees during the 2003-2005 fiscal biennium for the purpose of restoring the excess fund balance transferred under this section.

Sec. 904. RCW 28A.160.195 and 1995 1st sp.s. c 10 s 1 are each amended to read as follows:

(1) The superintendent of public instruction, in consultation with the regional transportation coordinators of the educational service districts, shall establish a minimum number of school bus categories considering the capacity and type of vehicles required by school districts in Washington. The superintendent, in consultation with the regional transportation coordinators of the educational service districts, shall establish competitive specifications for each category of school bus. The categories shall be developed to produce minimum long-range operating costs, including costs of equipment and all costs in operating the vehicles. The categories, for purposes of comparative studies, will be at a minimum the same as those in the beginning of the 1994-95 school year. The competitive specifications shall meet federal motor vehicle safety standards, minimum state specifications as established by rule by the superintendent, and supported options as determined by the superintendent in consultation with the regional transportation coordinators of the educational service districts. In fiscal year 2005, the superintendent may solicit and accept price quotes for a rear-engine category school bus that shall be reimbursed at the price of the corresponding front engine category.

(2) After establishing school bus categories and competitive specifications, the superintendent of public instruction shall solicit competitive price quotes from school bus dealers to be in effect for one year and shall (a) except in fiscal year 2005, establish a list of the lowest competitive price quotes obtained under this subsection, and (b) in fiscal year 2005, establish a list of all accepted price quotes in each category obtained under this subsection.

(3) The superintendent shall base the level of reimbursement to school districts and educational service districts for school buses on the lowest quote in each category.

(4) Notwithstanding RCW 28A.335.190, school districts and educational service districts may purchase at the quoted price directly from the dealer who is providing the lowest competitive price quote on the list established under subsection (2) of this section and in fiscal year 2005 from any dealer on the list

established under subsection (2)(b) of this section. School districts and educational service districts may make their own selections for school buses, but shall be reimbursed at the rates determined under ~~((this section))~~ subsection (3) of this section and RCW 28A.160.200. District-selected options shall not be reimbursed by the state. For the 2003-05 fiscal biennium, school districts and educational service districts shall be reimbursed for buses purchased only through a lowest-price competitive bid process conducted pursuant to RCW 28A.335.190 or through the state bid process established by this section.

(5) This section does not prohibit school districts or educational service districts from conducting their own competitive bid process.

(6) The superintendent of public instruction may adopt rules under chapter 34.05 RCW to implement this section.

Sec. 905. RCW 28B.102.040 and 1987 c 437 s 4 are each amended to read as follows:

The higher education coordinating board shall establish a planning committee to develop criteria for the screening and selection of recipients of the conditional scholarships. These criteria shall emphasize factors demonstrating excellence including but not limited to superior scholastic achievement, leadership ability, community contributions, and an ability to act as a role model for targeted ethnic minority students. These criteria also may include, for approximately half of the recipients, requirements that those recipients meet the definition of "needy student" under RCW 28B.10.802.

Subject to enactment of chapter . . . , Laws of 2004 (SHB 2708), for fiscal year 2005, additional priority shall be given to such individuals who are also bilingual. It is the intent of the legislature to develop a pool of dual-language teachers in order to meet the challenge of educating students who are dominant in languages other than English.

***Sec. 906.** RCW 28B.119.010 and 2003 c 233 s 5 are each amended to read as follows:

The higher education coordinating board shall design the Washington promise scholarship program based on the following parameters:

(I) Scholarships shall be awarded to students graduating from public and approved private high schools under chapter 28A.195 RCW, students participating in home-based instruction as provided in chapter 28A.200 RCW, and persons twenty-one years of age or younger receiving a GED certificate, who meet both an academic and a financial eligibility criteria.

(a) Academic eligibility criteria shall be defined as follows:

(i) Beginning with the graduating class of 2002, students graduating from public and approved private high schools under chapter 28A.195 RCW must be in the top fifteen percent of their graduating class, as identified by each respective high school at the completion of the first term of the student's senior year; or

(ii) Students graduating from public high schools, approved private high schools under chapter 28A.195 RCW, students participating in home-based instruction as provided in chapter 28A.200 RCW, and persons twenty-one years of age or younger receiving a GED certificate, must equal or exceed a cumulative scholastic assessment test I score of twelve hundred on their first

attempt or must equal or exceed a composite American college test score of twenty-seven on their first attempt.

(b) To meet the financial eligibility criteria, a student's family income shall not exceed one hundred thirty-five percent of the state median family income adjusted for family size, as determined by the higher education coordinating board for each graduating class. Students not meeting the eligibility requirements for the first year of scholarship benefits may reapply for the second year of benefits, but must still meet the income standard set by the board for the student's graduating class. Beginning with the graduating class of 2004, a student's family income shall not exceed one hundred twenty percent of the state median family income adjusted for family size, as determined by the higher education coordinating board.

(2) Promise scholarships are not intended to supplant any grant, scholarship, or tax program related to postsecondary education. If the board finds that promise scholarships supplant or reduce any grant, scholarship, or tax program for categories of students, then the board shall adjust the financial eligibility criteria or the amount of scholarship to the level necessary to avoid supplanting.

(3) Within available funds, each qualifying student shall receive two consecutive annual awards, the value of each not to exceed the full-time annual resident tuition rates charged by Washington's community colleges. The higher education coordinating board shall award scholarships to as many students as possible from among those qualifying under this section.

(4) By October 15th of each year, the board shall determine the award amount of the scholarships, after taking into consideration the availability of funds.

(5) The scholarships may only be used for undergraduate coursework at accredited institutions of higher education in the state of Washington.

(6) The scholarships may be used for undergraduate coursework at Oregon institutions of higher education that are part of the border county higher education opportunity project in RCW 28B.80.806 when those institutions offer programs not available at accredited institutions of higher education in Washington state.

(7) The scholarships may be used for college-related expenses, including but not limited to, tuition, room and board, books, and materials.

(8) The scholarships may not be awarded to any student who is pursuing a degree in theology.

(9) The higher education coordinating board may establish satisfactory progress standards for the continued receipt of the promise scholarship.

(10) The higher education coordinating board shall establish the time frame within which the student must use the scholarship.

**Sec. 906 was vetoed. See message at end of chapter.*

Sec. 907. RCW 43.83.020 and 1991 sp.s. c 13 s 46 are each amended to read as follows:

(1) The proceeds from the sale of the bonds authorized herein shall be deposited in the state building construction account which is hereby established in the state treasury and shall be used exclusively for the purposes of carrying out the provisions of the capital appropriation acts, and for payment of the expense incurred in the printing, issuance, and sale of such bonds.

(2) During the 2003-2005 biennium, the legislature may transfer moneys from the state building construction account to the conservation assistance revolving account such amounts as reflect the excess fund balance of the account.

Sec. 908. RCW 43.88.030 and 2002 c 371 s 911 are each amended to read as follows:

(1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. The director shall provide agencies and committees that are required under RCW 44.40.070 to develop comprehensive six-year program and financial plans with a complete set of instructions for submitting these program and financial plans at the same time that instructions for submitting other budget requests are provided. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues and caseloads as approved by the economic and revenue forecast council and caseload forecast council or upon the estimated revenues and caseloads of the office of financial management for those funds, accounts, sources, and programs for which the forecast councils do not prepare an official forecast, including those revenues anticipated to support the six-year programs and financial plans under RCW 44.40.070. In estimating revenues to support financial plans under RCW 44.40.070, the office of financial management shall rely on information and advice from the transportation revenue forecast council. Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues and caseloads for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue and caseload estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues and caseloads must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

Supplemental and biennial documents shall reflect a six-year expenditure plan consistent with estimated revenues from existing sources and at existing rates for those agencies required to submit six-year program and financial plans

under RCW 44.40.070. Any additional revenue resulting from proposed changes to existing statutes shall be separately identified within the document as well as related expenditures for the six-year period.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, those anticipated for the ensuing biennium, and those anticipated for the ensuing six-year period to support the six-year programs and financial plans required under RCW 44.40.070;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, activity, and agency. However, documents submitted for the ((2003-05)) 2005-07 biennial budget request need not show expenditures by activity;

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

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.71 RCW, shown by agency and in total; and

(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments, and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium, as well as those required to support the six-year programs and financial plans required under RCW 44.40.070;

(g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and

(j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation.

(3) A separate capital budget document or schedule shall be submitted that will contain the following:

(a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;

(b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;

(c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;

(d) A strategic plan for reducing backlogs of maintenance and repair projects. The plan shall include a prioritized list of specific facility deficiencies and capital projects to address the deficiencies for each agency, cost estimates for each project, a schedule for completing projects over a reasonable period of time, and identification of normal maintenance activities to reduce future backlogs;

(e) A statement of the reason or purpose for a project;

(f) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;

(g) A statement about the proposed site, size, and estimated life of the project, if applicable;

(h) Estimated total project cost;

(i) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs shall be displayed in a standard format defined by the office of financial management to allow comparisons between projects;

(j) Estimated total project cost for each phase of the project as defined by the office of financial management;

(k) Estimated ensuing biennium costs;

(l) Estimated costs beyond the ensuing biennium;

(m) Estimated construction start and completion dates;

(n) Source and type of funds proposed;

(o) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

(p) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary

purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;

(q) Such other information bearing upon capital projects as the governor deems to be useful;

(r) Standard terms, including a standard and uniform definition of normal maintenance, for all capital projects;

(s) Such other information as the legislature may direct by law or concurrent resolution.

For purposes of this subsection (3), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative transportation committee, legislative evaluation and accountability program committee, and office of financial management.

(4) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.

Sec. 909. RCW 43.105.830 and 1999 c 285 s 9 are each amended to read as follows:

(1) The K-20 technology account is hereby created in the state treasury. The department of information services shall deposit into the account moneys received from legislative appropriations, gifts, grants, and endowments for the buildout and installation of the K-20 telecommunication system. The account shall be subject to appropriation and may be expended solely for the K-20 telecommunication system. Disbursements from the account shall be on authorization of the director of the department of information services with approval of the board.

(2) During the 2003-2005 biennium, the legislature may transfer moneys from the K-20 technology account to the state general fund such amounts as reflect the excess fund balance of the account.

Sec. 910. RCW 43.105.835 and 1999 c 285 s 10 are each amended to read as follows:

(1) The education technology revolving fund is created in the custody of the state treasurer. All receipts from billings under subsection (2) of this section must be deposited in the revolving fund. Only the director of the department of information services or the director's designee may authorize expenditures from the fund. The revolving fund shall be used to pay for network operations, transport, equipment, software, supplies, and services, maintenance and depreciation of on-site data, and shared infrastructure, and other costs incidental to the development, operation, and administration of shared educational information technology services, telecommunications, and systems. The revolving fund shall not be used for the acquisition, maintenance, or operations of local telecommunications infrastructure or the maintenance or depreciation of on-premises video equipment specific to a particular institution or group of institutions.

(2) The revolving fund and all disbursements from the revolving fund are subject to the allotment procedure under chapter 43.88 RCW, but an appropriation is not required for expenditures. The department of information services shall, in consultation with entities connected to the network under RCW 43.105.820 and subject to the review and approval of the office of financial management, establish and implement a billing structure for network services identified in subsection (1) of this section.

(3) The department shall charge those public entities connected to the K-20 telecommunications [telecommunication system] under RCW 43.105.820 an annual copayment per unit of transport connection as determined by the legislature after consideration of the K-20 board's recommendations. This copayment shall be deposited into the revolving fund to be used for the purposes in subsection (1) of this section. It is the intent of the legislature to appropriate to the revolving fund such moneys as necessary to cover the costs for transport, maintenance, and depreciation of data equipment located at the individual public institutions, maintenance and depreciation of the network backbone, and services provided to the network under RCW 43.105.815.

(4) During the 2003-05 biennium, the legislature may transfer moneys from the education technology revolving fund to the state general fund and the data processing revolving fund such amounts as reflect the excess fund balance of the account.

Sec. 911. RCW 49.70.170 and 2001 2nd sp.s. c 7 s 913 are each amended to read as follows:

(1) The worker and community right to know fund is hereby established in the custody of the state treasurer. The department shall deposit all moneys received under this chapter in the fund. Moneys in the fund may be spent only for the purposes of this chapter following legislative appropriation. Disbursements from the fund shall be on authorization of the director or the director's designee. During the ((2001-))2003-2005 fiscal biennium, moneys in the fund may also be used by the military department for the purpose of assisting the state emergency response commission and coordinating local emergency planning activities. The fund is subject to the allotment procedure provided under chapter 43.88 RCW.

(2) The department shall assess each employer who reported ten thousand four hundred or more worker hours in the prior calendar year an annual fee to provide for the implementation of this chapter. The department shall promulgate

rules establishing a fee schedule for all employers who reported ten thousand four hundred or more worker hours in the prior calendar year and are engaged in business operations having a standard industrial classification, as designated in the standard industrial classification manual prepared by the federal office of management and budget, within major group numbers 01 through 08 (agriculture and forestry industries), numbers 10 through 14 (mining industries), numbers 15 through 17 (construction industries), numbers 20 through 39 (manufacturing industries), numbers 41, 42, and 44 through 49 (transportation, communications, electric, gas, and sanitary services), number 75 (automotive repair, services, and garages), number 76 (miscellaneous repair services), number 80 (health services), and number 82 (educational services). The department shall establish the annual fee for each employer who reported ten thousand four hundred or more worker hours in the prior calendar year in industries identified by this section, provided that fees assessed shall not be more than two dollars and fifty cents per full time equivalent employee. The annual fee shall not exceed fifty thousand dollars. The fees shall be collected solely from employers whose industries have been identified by rule under this chapter. The department shall promulgate rules allowing employers who do not have hazardous substances at their workplace to request an exemption from the assessment and shall establish penalties for fraudulent exemption requests. All fees collected by the department pursuant to this section shall be collected in a cost-efficient manner and shall be deposited in the fund.

(3) Records required by this chapter shall at all times be open to the inspection of the director, or his designee including, the traveling auditors, agents or assistants of the department provided for in RCW 51.16.070 and 51.48.040. The information obtained from employer records under the provisions of this section shall be subject to the same confidentiality requirements as set forth in RCW 51.16.070.

(4) An employer may appeal the assessment of the fee or penalties pursuant to the procedures set forth in Title 51 RCW and accompanying rules except that the employer shall not have the right of appeal to superior court as provided in Title 51 RCW. The employer from whom the fee or penalty is demanded or enforced, may however, within thirty days of the board of industrial insurance appeal's final order, pay the fee or penalty under written protest setting forth all the grounds upon which such fee or penalty is claimed to be unlawful, excessive or otherwise improper and thereafter bring an action in superior court against the department to recover such fee or penalty or any portion of the fee or penalty which was paid under protest.

(5) Repayment shall be made to the general fund of any moneys appropriated by law in order to implement this chapter.

Sec. 912. RCW 69.50.520 and 2003 1st sp.s. c 25 s 930 are each amended to read as follows:

The violence reduction and drug enforcement account is created in the state treasury. All designated receipts from RCW 9.41.110(8), 66.24.210(4), 66.24.290(2), 69.50.505(~~((+)(+))~~) (9)(a), 82.08.150(5), 82.24.020(2), 82.64.020, and section 420, chapter 271, Laws of 1989 shall be deposited into the account. Expenditures from the account may be used only for funding services and programs under chapter 271, Laws of 1989 and chapter 7, Laws of 1994 sp. sess., including state incarceration costs. Funds from the account may also be

appropriated to reimburse local governments for costs associated with implementing criminal justice legislation including chapter 338, Laws of 1997. During the 2003-2005 biennium, funds from the account may also be used for costs associated with providing grants to local governments in accordance with chapter 338, Laws of 1997, funding drug offender treatment services in accordance with RCW 70.96A.350, maintenance and operating costs of the Washington association of sheriffs and police chiefs jail reporting system, maintenance and operating costs of the juvenile rehabilitation administration's client activity tracking system, civil indigent legal representation, multijurisdictional narcotics task forces, and grants to community networks under chapter 70.190 RCW by the family policy council.

Sec. 913. RCW 74.46.431 and 2001 1st sp.s. c 8 s 5 are each amended to read as follows:

(1) Effective July 1, 1999, nursing facility medicaid payment rate allocations shall be facility-specific and shall have seven components: Direct care, therapy care, support services, operations, property, financing allowance, and variable return. The department shall establish and adjust each of these components, as provided in this section and elsewhere in this chapter, for each medicaid nursing facility in this state.

(2) All component rate allocations for essential community providers as defined in this chapter shall be based upon a minimum facility occupancy of eighty-five percent of licensed beds, regardless of how many beds are set up or in use. For all facilities other than essential community providers, effective July 1, 2001, component rate allocations in direct care, therapy care, support services, variable return, operations, property, and financing allowance shall continue to be based upon a minimum facility occupancy of eighty-five percent of licensed beds. For all facilities other than essential community providers, effective July 1, 2002, the component rate allocations in operations, property, and financing allowance shall be based upon a minimum facility occupancy of ninety percent of licensed beds, regardless of how many beds are set up or in use.

(3) Information and data sources used in determining medicaid payment rate allocations, including formulas, procedures, cost report periods, resident assessment instrument formats, resident assessment methodologies, and resident classification and case mix weighting methodologies, may be substituted or altered from time to time as determined by the department.

(4)(a) Direct care component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 will be used for October 1, 1998, through June 30, 2001, direct care component rate allocations; adjusted cost report data from 1999 will be used for July 1, 2001, through June 30, (~~2004~~) 2005, direct care component rate allocations.

(b) Direct care component rate allocations based on 1996 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 1998, rate, as provided in RCW 74.46.506(5)(i).

(c) Direct care component rate allocations based on 1999 cost report data shall be adjusted annually for economic trends and conditions by a factor or

factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 1998, rate, as provided in RCW 74.46.506(5)(i).

(5)(a) Therapy care component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 will be used for October 1, 1998, through June 30, 2001, therapy care component rate allocations; adjusted cost report data from 1999 will be used for July 1, 2001, through June 30, (~~2004~~) 2005, therapy care component rate allocations.

(b) Therapy care component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(6)(a) Support services component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, support services component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, (~~2004~~) 2005, support services component rate allocations.

(b) Support services component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(7)(a) Operations component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, operations component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, (~~2004~~) 2005, operations component rate allocations.

(b) Operations component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(8) For July 1, 1998, through September 30, 1998, a facility's property and return on investment component rates shall be the facility's June 30, 1998, property and return on investment component rates, without increase. For October 1, 1998, through June 30, 1999, a facility's property and return on investment component rates shall be rebased utilizing 1997 adjusted cost report data covering at least six months of data.

(9) Total payment rates under the nursing facility medicaid payment system shall not exceed facility rates charged to the general public for comparable services.

(10) Medicaid contractors shall pay to all facility staff a minimum wage of the greater of the state minimum wage or the federal minimum wage.

(11) The department shall establish in rule procedures, principles, and conditions for determining component rate allocations for facilities in circumstances not directly addressed by this chapter, including but not limited to: The need to prorate inflation for partial-period cost report data, newly constructed facilities, existing facilities entering the medicaid program for the first time or after a period of absence from the program, existing facilities with expanded new bed capacity, existing medicaid facilities following a change of

ownership of the nursing facility business, facilities banking beds or converting beds back into service, facilities temporarily reducing the number of set-up beds during a remodel, facilities having less than six months of either resident assessment, cost report data, or both, under the current contractor prior to rate setting, and other circumstances.

(12) The department shall establish in rule procedures, principles, and conditions, including necessary threshold costs, for adjusting rates to reflect capital improvements or new requirements imposed by the department or the federal government. Any such rate adjustments are subject to the provisions of RCW 74.46.421.

(13) Effective July 1, 2001, medicaid rates shall continue to be revised downward in all components, in accordance with department rules, for facilities converting banked beds to active service under chapter 70.38 RCW, by using the facility's increased licensed bed capacity to recalculate minimum occupancy for rate setting. However, for facilities other than essential community providers which bank beds under chapter 70.38 RCW, after May 25, 2001, medicaid rates shall be revised upward, in accordance with department rules, in direct care, therapy care, support services, and variable return components only, by using the facility's decreased licensed bed capacity to recalculate minimum occupancy for rate setting, but no upward revision shall be made to operations, property, or financing allowance component rates.

(14) Facilities obtaining a certificate of need or a certificate of need exemption under chapter 70.38 RCW after June 30, 2001, must have a certificate of capital authorization in order for (a) the depreciation resulting from the capitalized addition to be included in calculation of the facility's property component rate allocation; and (b) the net invested funds associated with the capitalized addition to be included in calculation of the facility's financing allowance rate allocation.

Sec. 914. RCW 79.90.245 and 2002 c 371 s 923 are each amended to read as follows:

After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.92.110(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be deposited in the aquatic lands enhancement account which is hereby created in the state treasury. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to such lands; and for volunteer cooperative fish and game projects.

In providing grants for aquatic lands enhancement projects, the department shall require grant recipients to incorporate the environmental benefits of the project into their grant applications, and the department shall utilize the statement of environmental benefits in its prioritization and selection process. The department shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grants. To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The department shall consult with affected interest groups in implementing this section.

During the fiscal biennium ending June 30, ((2003)) 2005, the funds may be appropriated for boating safety, settlement costs for aquatic lands cleanup, and shellfish management, enforcement, and enhancement.

NEW SECTION. Sec. 915. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 916. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

INDEX	PAGE #
ADMINISTRATOR FOR THE COURTS	1308
AGENCY EXPENDITURES FOR MOTOR VEHICLES	1449
AGENCY EXPENDITURES FOR TORT LIABILITY	1439
AGENCY EXPENDITURES FOR TRAVEL, EQUIPMENT, AND CONTRACTS	1444
ATTORNEY GENERAL	1313
BOARD OF TAX APPEALS	1325
CASELOAD FORECAST COUNCIL	1314
CENTRAL WASHINGTON UNIVERSITY	1427
CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS	1313
CONSERVATION COMMISSION	1377
COURT OF APPEALS	1308
CRIMINAL JUSTICE TRAINING COMMISSION	1369
DEPARTMENT OF AGRICULTURE	1384
DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT	1314
COUNTY ASSISTANCE	1443
DEPARTMENT OF CORRECTIONS	1365
DEPARTMENT OF ECOLOGY	1371
DEPARTMENT OF FISH AND WILDLIFE	1378
DEPARTMENT OF GENERAL ADMINISTRATION	1325
DEPARTMENT OF HEALTH	1362
DEPARTMENT OF INFORMATION SERVICES	1327
DEPARTMENT OF LABOR AND INDUSTRIES	1359
DEPARTMENT OF LICENSING	1385
DEPARTMENT OF NATURAL RESOURCES	1381
DEPARTMENT OF PERSONNEL	1323
DEPARTMENT OF RETIREMENT SYSTEMS CONTRIBUTIONS TO RETIREMENT SYSTEMS	1443
OPERATIONS	1326
TRANSFERS	1449
DEPARTMENT OF REVENUE	1324
DEPARTMENT OF SOCIAL AND HEALTH SERVICES	1333
ADMINISTRATION AND SUPPORTING SERVICES PROGRAM .	1356
AGING AND ADULT SERVICES PROGRAM	1346
ALCOHOL AND SUBSTANCE ABUSE PROGRAM	1351

CHILDREN AND FAMILY SERVICES PROGRAM 1334
 DEVELOPMENTAL DISABILITIES PROGRAM 1342
 ECONOMIC SERVICES PROGRAM 1349
 JUVENILE REHABILITATION PROGRAM 1336
 MEDICAL ASSISTANCE PROGRAM 1352
 MENTAL HEALTH PROGRAM 1338
 PAYMENTS TO OTHER AGENCIES PROGRAM 1357
 VOCATIONAL REHABILITATION PROGRAM 1356
 DEPARTMENT OF VETERANS AFFAIRS 1361
 EASTERN WASHINGTON UNIVERSITY 1427
 EMPLOYMENT SECURITY DEPARTMENT 1368
 ENVIRONMENTAL HEARINGS OFFICE 1377
 FUND BALANCE TRANSFER 1449
 GOVERNOR
 COMPENSATION—INSURANCE BENEFITS 1437
 HIGHER EDUCATION COORDINATING BOARD
 FINANCIAL AID AND GRANT PROGRAMS 1433
 POLICY COORDINATION AND ADMINISTRATION 1430
 HOME CARE QUALITY AUTHORITY 1362
 HOMELESS FAMILIES SERVICES FUND 1444
 HORSE RACING COMMISSION 1328
 HOUSE OF REPRESENTATIVES 1304
 INCREASED FEDERAL ASSISTANCE 1439
 INSURANCE COMMISSIONER 1328
 INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION 1376
 JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE 1304
 K-12 CARRYFORWARD AND PRIOR SCHOOL YEAR ADJUSTMENTS
 1418
 LAW LIBRARY 1307
 LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM
 COMMITTEE 1306
 LIQUOR CONTROL BOARD 1328
 MILITARY DEPARTMENT 1330
 OFFICE OF ADMINISTRATIVE HEARINGS 1323
 OFFICE OF FINANCIAL MANAGEMENT 1321
 CONTRIBUTIONS TO RETIREMENT SYSTEMS 1441
 EDUCATION TECHNOLOGY REVOLVING ACCOUNT 1439
 EXTRAORDINARY CRIMINAL JUSTICE COSTS 1441
 HELP AMERICA VOTE ACT 1440
 MADER LAWSUIT SETTLEMENT 1441
 OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES . 1325
 OFFICE OF PUBLIC DEFENSE 1310
 OFFICE OF THE GOVERNOR 1310
 JOINT TASK FORCE ON MENTAL HEALTH 1442
 PUBLIC EMPLOYMENT RELATIONS COMMISSION 1332
 SECRETARY OF STATE 1310
 SENATE 1304
 SENTENCING GUIDELINES COMMISSION 1370
 STATE AUDITOR 1312

STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES . 1420
 STATE HEALTH CARE AUTHORITY 1357
 STATE PARKS AND RECREATION COMMISSION 1375
 STATE PATROL 1387
 STATE TREASURER 1312
 BOND RETIREMENT AND INTEREST 1436, 1437
 STATE REVENUES FOR DISTRIBUTION 1445
 TRANSFERS 1446
 SUNDRY CLAIMS 1440
 SUPERINTENDENT OF PUBLIC INSTRUCTION 1388
 BASIC EDUCATION EMPLOYEE COMPENSATION 1397
 EDUCATION REFORM PROGRAMS 1409
 EDUCATIONAL SERVICE DISTRICTS 1407
 ELEMENTARY AND SECONDARY SCHOOL— IMPROVEMENT—
 NO CHILD LEFT BEHIND 1409
 GENERAL APPORTIONMENT 1392
 INSTITUTIONAL EDUCATION PROGRAMS 1407
 LEARNING ASSISTANCE PROGRAM 1416
 LOCAL EFFORT ASSISTANCE 1407
 PROGRAMS FOR HIGHLY CAPABLE STUDENTS 1408
 PUPIL TRANSPORTATION 1402
 SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS 1400
 SCHOOL FOOD SERVICE PROGRAMS 1403
 SPECIAL EDUCATION PROGRAMS 1404
 STUDENT ACHIEVEMENT PROGRAM 1417
 TRANSITIONAL BILINGUAL PROGRAMS 1415
 SUPREME COURT 1307
 THE EVERGREEN STATE COLLEGE 1428
 UNIVERSITY OF WASHINGTON 1423
 UTILITIES AND TRANSPORTATION COMMISSION 1329
 WASHINGTON STATE UNIVERSITY 1425
 WESTERN WASHINGTON UNIVERSITY 1430

Passed by the House March 11, 2004.

Passed by the Senate March 11, 2004.

Approved by the Governor April 1, 2004, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 1, 2004.

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

"I am returning herewith, without my approval the following appropriation items and sections 103(2); 103(3); 103(4); 103(6); 103(7); 111, lines 21-22; 203, lines 26-27; 204(2)(d); 513(18); 601(3); 603(12); 604(9); 609(3)(a); 610(11), lines 7-13; 717; 802, page 207, lines 10-14; and 906, Engrossed Substitute House Bill No. 2459 entitled:

"AN ACT Relating to fiscal matters;"

Engrossed Substitute House Bill No. 2459 is the state supplemental operating budget for the 2003-2005 Biennium. I have vetoed several provisions as described below:

Sections 103(2); 103(3); 103(4); 103(6); and 103(7), Page 3, Various Studies (Joint Legislative Audit and Review Committee (JLARC))

With the exception of Section 103(7), which applies to a bill that did not pass, the subsections I have vetoed would have added funding for specific fiscal year 2005 studies. While these studies may have merit, it is more appropriate for JLARC to fund these new priorities with existing resources. I have left intact two JLARC studies, one on state wildfire suppression and the other on alternative learning experience programs, that relate to audit issues.

Section 111, Page 11, Lines 21-22, Primary Election (Secretary of State)

Implementation of the new primary system will increase local government costs at a time when many have had to make significant cuts to services due to ongoing revenue shortfalls. This veto restores \$6.038 million General Fund-State to the Secretary of State's Office to help defray one-time county costs associated with implementing this new system. Because this appropriation will lapse on June 30, 2004, county auditors will need to file expense claims with the Secretary of State's Office by June 15, 2004.

Section 203, Page 47, Lines 26-27, Cost Assumption for Juvenile Institutions Beds (Department of Social and Health Services (DSHS) - Juvenile Rehabilitation Administration)

Savings assumed in the 2003-2005 enacted budget were too large due to a technical error in the way they were calculated. This would have caused a shortfall of \$1.1 million in fiscal year 2005, which would have resulted in overcrowding and reductions in treatment programs. Therefore, I have vetoed the change to the 2005 fiscal year appropriation to restore \$2,213,000 in the Juvenile Rehabilitation program. DSHS will be directed to place \$1,076,000 of these funds into unallotted status and use the balance of the funds, \$1,056,000 to maintain these essential youth services.

Section 204(2)(d), Page 53, State Hospital Inpatient Assumptions (Department of Social and Health Services (DSHS) - Mental Health Program)

This proviso would have prohibited DSHS from reducing the number of inpatient psychiatric hospital beds below existing levels of 642 at Western State Hospital and 191 at Eastern State Hospital. The minimum level of hospital beds specified in the proviso for Western State Hospital exceeds the current level of inpatient psychiatric hospital beds by 95. Thus, this proviso would have directed the DSHS to increase the number of psychiatric hospital beds without additional funding. Adding inpatient beds without additional funding would have resulted in a significant budget shortfall, or would have come at the expense of community placements. DSHS will not change the number of existing inpatient hospital beds until the Joint Task Force on Mental Health, provided for in section 714 of this act, makes recommendations. In addition, I concur with the language in section 204(2)(d) that would have ensured community placements from the adaptive living skills program may only occur if DSHS provides sufficient resources to the communities in which patients are placed.

Section 513(18), Page 160, Study of Title II Funding (Superintendent of Public Instruction)

Current estimates for federal Title II funds from the No Child Left Behind Act indicate that the amount assumed in the supplemental budget as passed is too high. There also is a concern that federal Title II funds may not be used for the \$50,000 JLARC study required in the supplemental budget. I have vetoed this subsection in order to retain the \$87.9 million federal appropriation in the current budget, to and eliminate the mandate for a study.

Section 601(3), Page 167, Enrollment Band Intent Language (Higher Education)

This item would have stated the intent of the Legislature that the higher education institutions manage enrollment within two percent of budgeted levels. Because every four-year institution, and the two-year system as a whole, is already over-enrolled, this language would have required institutions to reduce their current enrollment levels. While high over-enrollment imposes some costs to the state through financial aid, for example, this is the wrong time to reduce access in our higher education system.

Section 603(12), Page 174, Bothell Campus Study (University of Washington)

This subsection would have required the University of Washington branch campus in Bothell to issue a plan to the Legislature detailing how the institution would phase in lower division courses. Elements of the plan would include enrollment growth estimates, appropriate state funding levels, fiscal costs, etc. The recently enacted Substitute House Bill No. 2707 directs all branch campuses to examine their service delivery options - from partnerships with community and technical colleges, to adding lower division courses and becoming four-year universities. This statewide approach in Substitute House Bill No. 2707 is superior because it does not presuppose a correct answer to the

question of which institutional structure best fits state needs. Further, it will examine every campus, which may help to identify other branches equally well suited to deliver lower division courses.

Section 604(9), Page 177, Vancouver Campus Study (Washington State University)

This subsection would have required the Washington State University branch campus in Vancouver to issue a plan similar to the one required in section 603(12). I have vetoed this subsection for the same reasons set forth above.

Section 609(3)(a), Page 183, High-Demand Enrollment (Higher Education Coordinating Board (HECB))

This item would have allowed private institutions to compete for these enriched FTEs. Despite the over-enrollment in public four-year institutions, funding is the limiting factor for high-demand degree production, not physical capacity. Siphoning some of this limited funding to private schools would exacerbate this problem. We should think carefully about how to utilize the capacity that private schools provide, but not rush to judgment by opening this extremely successful program to private institutions.

Section 610(11), Page 189, Lines 7-13, Promise Scholarship Eligibility (Higher Education Coordinating Board (HECB))

This section would have changed the eligibility requirements for the Promise Scholarship program. This program was designed to reward achievement in high school, but its ability to function as a meaningful reward would have been compromised if eligibility standards changed. Predictability for students, parents, and counselors is critical to the program's success. Changing the income eligibility now, even for just one year, would have set a troubling precedent.

Section 717, Page 201, Allotment Reductions to Travel, Equipment, and Contracts

In the 2003-05 enacted budget, I vetoed a similar across-the-board reduction because it presented reductions on top of programmatic cuts that had already been taken. My objections remain. Also, the calculation of this reduction was based on actual spending during the prior fiscal year, which creates inequities in the way the reductions are applied. The Department of Corrections, for example, previously incurred a major one-time expense for a data system, but that funding is no longer in the budget and should not be the basis for a new cut. The Office of the Superintendent of Public Instruction would have had to absorb the object cut while absorbing unfunded new programs that the Legislature created for professional conduct investigations. This section would have cut higher education by \$2.7 million - more than ten percent of the increase provided in the supplemental budget - reducing the final budget to less than half of what I originally proposed in my 2004 supplemental budget, and eroding the increase in student enrollments. For these reasons, I have vetoed this section.

Section 802, Page 207, Lines 10-14, Transfer to the General Fund (State Treasurer)

I have vetoed this transfer of \$500,000 from the Gambling Revolving Fund to the General Fund to enable the Gambling Commission to resume its contribution to the Council on Problem Gambling. Although the Gambling Revolving Fund is nonappropriated, it is my expectation that the Gambling Commission will follow through on the intent to provide additional funding to address the critical issue of problem gambling.

Section 906, Page 211-213, Promise Scholarship Eligibility

Consistent with the intent of section 610(11), this item would have amended the statute governing the Promise Scholarship program. I have vetoed it for the same reasons set forth in my veto of that section.

For these reasons, I have vetoed appropriation items and sections 103(2); 103(3); 103(4); 103(6); 103(7); 111, lines 21-22; 203, lines 26-27; 204(2)(d); 513(18); 601(3); 603(12); 604(9); 609(3)(a); 610(11), lines 7-13; 717; 802, page 207, lines 10-14; and 906, of Engrossed Substitute House Bill No. 2459.

With the exception of appropriation items and sections 103(2);103(3); 103(4); 103(6); 103(7); 111, lines 21-22; 203, lines 26-27; 204(2)(d); 513(18); 601(3); 603(12); 604(9); 609(3)(a); 610(11), lines 7-13; 717; 802, page 207, lines 10-14; and 906, Engrossed Substitute House Bill No. 2459 is approved."

CHAPTER 277

[Engrossed Substitute House Bill 2573]

CAPITAL BUDGET

AN ACT Relating to the capital budget; making appropriations and authorizing expenditures for capital improvements; amending RCW 43.82.010, 70.146.030, and 28B.50.360; amending 2003 1st sp.s. c 26 ss 101, 104, 105, 107, 110, 161, 159, 173, 169, 250, 234, 313, 312, 317, 309, 340, 367, 369, 354, 394, 398, 406, 408, 501, 604, 615, 743, 380, 738, 805, 782, 816, 821, 130, 134, 151, 135, 162, 267, 273, 304, 310, 315, 333, 356, 366, 379, 399, 397, 389, 390, 412, 426, 606, 628, 633, 659, 678, 695, 702, 784, 786, 798, 801, 787, 601, 603, 629, 650, 672, 685, 697, 708, 799, 902, 905, 907, and 915 (uncodified); adding new sections to 2003 1st sp.s. c 26 (uncodified); adding a new section to chapter 89.08 RCW; adding a new section to chapter 39.33 RCW; adding a new section to chapter 79.19 RCW; creating new sections; providing an effective date; providing expiration dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. A supplemental capital budget is hereby adopted making changes to existing appropriations and making new appropriations which, subject to the provisions set forth in this act, the several dollar amounts hereinafter specified, or so much thereof as shall be necessary to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for capital purposes for the biennium ending June 30, 2005, out of the several funds specified in this act.

PART 1

ADJUSTMENTS/CORRECTIONS TO 2003-2005 CAPITAL BUDGET

Sec. 101. 2003 1st sp.s. c 26 s 101 (uncodified) is amended to read as follows:

FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

Capital Budget Studies (04-1-950)

(1) The ~~((appropriations))~~ appropriation in this section ~~((are))~~ is provided solely for capital studies, projects, and tasks pursuant to sections 923 and 924 of this act.

(2) The reappropriation in this section is from 2001 2nd sp.s. c 8 s 149 for the office of financial management.

Reappropriation:

State Building Construction Account—State \$164,000

Appropriation:

State Building Construction Account—State \$500,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$0

TOTAL \$664,000

Sec. 102. 2003 1st sp.s. c 26 s 104 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Rural Washington Loan Fund (88-2-002)

Reappropriation:

State Building Construction Account—State	\$558,000
((Rural Washington Loan Account—Federal	\$4,739,295
Subtotal Reappropriation	\$5,297,295))

Appropriation:

<u>Rural Washington Loan Account—State</u>	<u>\$4,542,969</u>
Prior Biennia (Expenditures)	((\$2,353,072))
	\$2,549,398
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,650,367

Sec. 103. 2003 1st sp.s. c 26 s 105 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Rural Washington Loan Fund (RWLF) (04-4-009)

Appropriation:

General Fund—Federal	\$1,900,000
Rural Washington Loan Account— ((Federal)) <u>State</u>	\$1,581,000
Subtotal Appropriation	\$3,481,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$24,132,000
TOTAL	\$27,613,000

Sec. 104. 2003 1st sp.s. c 26 s 107 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Building for the Arts (04-4-007)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is subject to the provisions of RCW 43.63A.750. The following projects are eligible for funding:

Projects	Location	Recommendation
Artspace (Tashiro Kaplan)	Seattle	\$300,000
Broadway center	Tacoma	\$400,000
Children's museum	Everett	\$200,000
Columbia city gallery	Seattle	\$110,000
Cornish College	Seattle	\$700,000
Friends of Gladish	Pullman	\$37,000
Historic cooper school	Seattle	\$32,000
Lincoln theatre	Mt. Vernon	\$110,000
Olympic theatre arts	Sequim	\$265,000
Orcas sculpture park	Eastsound	\$15,000

Pacific Northwest ballet	Bellevue	\$268,000
Pratt fine arts center	Seattle	\$700,000
Richland players theatre	Richland	\$51,000
S'Klallam longhouse	Kingston	\$200,000
Seattle art museum	Seattle	\$700,000
Squaxin Island museum	Shelton	\$100,000
Vashon allied arts	Vashon	\$80,000
Velocity dance center	Seattle	\$35,000
Western Washington center for the arts	Port Orchard	\$165,000
((World kite museum	Long Beach	(\$32,000))
TOTAL		(((\$4,500,000)) <u>\$4,468,000</u>

Appropriation:

State Building Construction Account—State	(((\$4,500,000)) <u>\$4,468,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,000,000
TOTAL	(((\$20,500,000)) <u>\$20,468,000</u>

Sec. 105. 2003 1st sp.s. c 26 s 110 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Community Economic Revitalization Board (CERB) (04-4-008)

The appropriation in this section is subject to the following conditions and limitations: ~~((The))~~ A maximum of twenty-five percent of the appropriation in this section ((is provided solely for loans to local governments)) may be used for grants.

Appropriation:

Public Facility Construction Loan Revolving Account—State	\$11,491,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$36,718,769
TOTAL	\$48,209,769

NEW SECTION. Sec. 106. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Drinking Water Assistance Program (00-2-007)

The reappropriation in this section is subject to the following conditions and limitations: Funding from the state public works trust fund shall be matched with new federal sources to improve the quality of drinking water in the state, and shall be used solely for projects that achieve the goals of the federal safe drinking water act.

Reappropriation:

Drinking Water Assistance Account—State	\$3,983,356
Prior Biennia (Expenditures)	\$3,716,644
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,700,000

Sec. 107. 2003 1st sp.s. c 26 s 161 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Heritage Park (01-H-004)

Reappropriation:

Capitol Building Construction Account—State	\$976,000
Prior Biennia (Expenditures)	\$14,559,774
Future Biennia (Projected Costs)	(\$0)
	<u>\$1,600,000</u>
TOTAL	<u>(\$16,035,774)</u>
	\$17,135,774

Sec. 108. 2003 1st sp.s. c 26 s 159 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Transportation Building Preservation (~~((98-1-008))~~) (02-1-008)

Reappropriation:

Thurston County Capital Facilities Account—State	\$1,001,000
Prior Biennia (Expenditures)	\$1,964,065
Future Biennia (Projected Costs)	\$19,090,000
TOTAL	\$22,055,065

Sec. 109. 2003 1st sp.s. c 26 s 173 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Legislative Building Security (04-2-950)

The appropriation in this section is subject to the following conditions and limitations: The department shall lease metal detectors for the legislative building for a term that expires no later than June 30, 2005. The department shall not renew the lease for metal detectors beyond June 30, 2005, unless specifically authorized to do so by the legislature.

Appropriation:

Thurston County Capital Facilities Account—State	\$1,179,000
Prior Biennia (Expenditures)	\$0

Future Biennia (Projected Costs)	\$0
TOTAL	\$1,179,000

Sec. 110. 2003 1st sp.s. c 26 s 169 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION
Engineering and Architectural Services (04-2-014)

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation in this section shall be used to provide project management services to state agencies as required by RCW 43.19.450 that are essential and mandated activities defined as core services and are included in the engineering and architectural services' responsibilities and task list for general public works projects of normal complexity. The general public works projects included are all those financed by the state capital budget for the biennium ending June 30, 2005, with individual total project values up to \$20 million.

(2) The department may negotiate agreements with agencies for additional fees to manage projects financed by financial contracts, other alternative financing, projects with a total value greater than \$20 million, or for the nonstate funded portion of projects with mixed funding sources.

(3) The department shall review each community and technical college request and the requests of other client agencies for funding any project over \$2.5 million for inclusion in the 2004 supplemental capital budget and the 2005-07 capital budget to ensure that the amount requested by the agency is appropriate for predesign, design, and construction, depending on the phase of the project being requested. The department shall pay particular attention: (a) That the budgeted amount requested is at an appropriate level for the various components that make up the cost of the project such as project management; and (b) that standard measurements such as cost per square foot are reasonable. The department shall also assist the office of financial management with review of other agency projects as requested.

Appropriation:

Charitable, Educational, Penal, and Reformatory	
Institutions Account—State	\$140,000
State Building Construction Account—State	(\$6,009,000)
	<u>\$6,996,000</u>
Thurston County Capital Facilities Account—State	(\$3,437,000)
	<u>\$937,000</u>
<u>Community and Technical College Capital Projects</u>	
<u>Account—State</u>	<u>\$1,513,000</u>
Subtotal Appropriation	\$9,586,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$9,586,000

NEW SECTION. Sec. 111. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Eastern State Hospital: Legal Offender Unit (98-2-002)

Reappropriation:

State Building Construction Account—State	\$250,000
Prior Biennia (Expenditures)	\$15,330,537
Future Biennia (Projected Costs)	\$0
TOTAL	\$15,580,537

Sec. 112. 2003 1st sp.s. c 26 s 250 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

Monroe Corrections Center: 100 Bed Management and Segregation Unit (00-2-008)

~~((The appropriations in this section are subject to the following conditions and limitations:~~

~~(1) It is the intent of the legislature to explore the concept of an anaerobic digester to treat dairy waste in Snohomish county, with the Monroe honor farm being one possible site for such a project.~~

~~(2) The department shall not sell, lease, or otherwise dispose of the Monroe honor farm site prior to December 1, 2004.)~~

Reappropriation:

General Fund—Federal	\$10,964,679
State Building Construction Account—State	\$8,575,906
Subtotal Reappropriation	\$19,540,585

Appropriation:

State Building Construction Account—State	\$18,674,031
Prior Biennia (Expenditures)	\$1,223,416
Future Biennia (Projected Costs)	\$0
TOTAL	\$39,438,032

Sec. 113. 2003 1st sp.s. c 26 s 234 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF HEALTH

Drinking Water Assistance Program (04-4-003)

The appropriation in this section is subject to the following conditions and limitations: This appropriation is provided solely for an interagency agreement with the department of community, trade, and economic development to make, in cooperation with the public works board, loans to local governments and public water systems for projects and activities to protect and improve the state's drinking water facilities and resources.

Appropriation:

Drinking Water Assistance Account—Federal	(\$28,122,000)
	<u>\$46,222,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	(\$28,122,000)

\$46,222,000

*Sec. 114. 2003 1st sp.s. c 26 s 313 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Centennial Clean Water Program (04-4-007)

The appropriations in this section are subject to the following conditions and limitations:

(1) Up to \$7,547,044 of the water quality account appropriation is provided for the extended grant payment to Metro/King county.

(2) Up to \$10,000,000 of the state building construction account—state appropriation is provided for the extended grant payment to Spokane for the Spokane-Rathdrum Prairie aquifer.

(3) \$2,000,000 of the state building construction account—state appropriation is provided solely for water quality facility grants for communities with a population of less than 5,000. The department shall give priority consideration to: (a) Communities subject to a regulatory order from the department of ecology for noncompliance with water quality regulations; (b) projects for which design work has been completed; and (c) projects with a local match from reasonable water quality rates and charges.

~~(4) ((\$1,500,000 of the state building construction—state appropriation is provided solely for water conveyance facilities to implement the 1996 memorandum of agreement regarding utilization of Skagit river basin water resources for in-stream and out-of-stream purposes.~~

~~(5))~~ (5)) \$4,000,000 of the state building construction account—state appropriation is provided solely for a grant to the city of Duvall for construction of a sewage treatment plant.

~~((6))~~ (5) \$1,000,000 of the state building construction account—state appropriation is provided solely for the Klickitat wastewater treatment project.

(6) \$1,100,000 of the state building construction account—state appropriation is provided solely for the comprehensive irrigation district management program.

(7) \$150,000 of the water quality account—state appropriation is to contract with a regional salmon enhancement organization for planning activities related to improving water quality in the Hood Canal, particularly research, preservation, and restoration of molluscan ecosystem including bivalves and other important filtering organisms in Hood Canal.

(8) \$1,000,000 of the water quality account—state appropriation is to assist the city of Enumclaw with wastewater treatment upgrades to address phosphorus loading in the White river.

(9) The remaining appropriation in this section is provided for statewide water quality implementation and planning grants and loans. The department shall give priority consideration to projects located in basins with critical or depressed salmonid stocks.

~~((8))~~ (10) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the department shall file quarterly project progress reports with the office of financial management.

Appropriation:

State Building Construction Account—State	(\$30,452,000)
	<u>\$28,952,000</u>
Water Quality Account—State	(\$15,948,000)
	<u>\$17,098,000</u>
Subtotal Appropriation	(\$46,400,000)
	<u>\$46,050,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$200,000,000
TOTAL	(\$246,400,000)
	<u>\$246,050,000</u>

*Sec. 114 was partially vetoed. See message at end of chapter.

Sec. 115. 2003 1st sp.s. c 26 s 312 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Centennial Clean Water Fund (02-4-007) and (86-2-007)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The reappropriation is subject to the conditions and limitations of section 315, chapter 8, Laws of 2001 2nd sp. sess.

(2) The reappropriation for project number 86-2-007 is \$793,214 for the public works assistance account and \$4,600,505 for the water quality account. The remainder, \$13,702,946 for the water quality account, is for project number 02-4-007.

Reappropriation:

Public Works Assistance Account—State	\$793,214
Water Quality Account—State	(\$20,210,510)
	<u>\$18,303,451</u>
Subtotal Reappropriation	<u>\$19,096,665</u>
Prior Biennia (Expenditures)	(\$115,983,563)
	<u>\$117,890,622</u>
Future Biennia (Projected Costs)	\$0
TOTAL	(\$136,194,073)
	<u>\$136,987,287</u>

Sec. 116. 2003 1st sp.s. c 26 s 317 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Padilla Bay Expansion (02-2-006)

Reappropriation:

General Fund—Federal	(\$1,472,891)
	<u>\$1,374,553</u>
State Building Construction Account—State	(\$693,353)
	<u>\$651,208</u>
Subtotal Reappropriation	(\$2,166,244)
	<u>\$2,025,761</u>

Appropriation:

General Fund—Federal	(((\$2,417,196))
	\$2,562,128
State Building Construction Account—State	\$568,804
Subtotal Appropriation	(((\$2,986,000))
	\$3,130,932
Prior Biennia (Expenditures)	(((\$527,756))
	\$668,239
Future Biennia (Projected Costs)	\$0
TOTAL	(((\$5,680,000))
	\$5,824,932

*Sec. 117. 2003 1st sp.s. c 26 s 309 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Water Rights Purchase/Lease (04-1-005)

(1) The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided for the purchase or lease of water rights. It is also provided for the purpose of improving stream and river flows in fish critical basins under the trust water rights program under chapters 90.42 and 90.38 RCW.

(2) The appropriation in this section is subject to the policies and requirements of chapter . . . (Engrossed Substitute House Bill No. 1317), Laws of 2004.

Appropriation:

General Fund—Federal	\$1,500,000
State Drought Preparedness—State	\$1,500,000
Subtotal Appropriation	\$3,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

*Sec. 117 was vetoed. See message at end of chapter.

*NEW SECTION. Sec. 118. *If chapter . . . (Engrossed Substitute House Bill No. 1317), Laws of 2004, is not enacted by April 15, 2004, section 117 of this act is null and void.*

*Sec. 118 was vetoed. See message at end of chapter.

Sec. 119. 2003 1st sp.s. c 26 s 340 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Iron Horse Trail (04-2-016)

~~((The appropriation in this section is subject to the following conditions and limitations:~~

~~(1) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the commission shall file quarterly project progress reports with the office of financial management.~~

(2) ~~The commission shall submit a study of potential user fees that could support maintenance, operation, and capital renewal costs of the agency's three cross-state trails. This study must be submitted to the office of financial management by June 30, 2004.)~~

The appropriation in this section is subject to the following conditions and limitations: The commission shall submit a study of potential user fees that could support maintenance, operation, and capital renewal costs of the commission's three cross-state trails. This study must be submitted to the office of financial management by June 30, 2004.

Appropriation:

~~((State Building Construction Account—State))~~

~~Parks Renewal and Stewardship Account—State \$262,500~~

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$0

TOTAL \$262,500

Sec. 120. 2003 1st sp.s. c 26 s 367 (uncodified) is amended to read as follows:

FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Salmon Recovery (00-2-001)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The agency shall report to the legislature by December 1, 2003, on the reason for funds in this section not being expended.

(2) \$974,000 of this 2004 amendment is for a fund balance adjustment.

Reappropriation:

General Fund—Federal \$35,263,219

Salmon Recovery Account—State(((\$11,076,017))

\$8,457,819

Subtotal Reappropriation(((\$46,339,236))

\$43,721,038

Prior Biennia (Expenditures)(((\$53,566,576))

\$55,210,774

Future Biennia (Projected Costs) \$0

TOTAL(((\$101,569,389))

\$98,931,812

Sec. 121. 2003 1st sp.s. c 26 s 369 (uncodified) is amended to read as follows:

FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Salmon Recovery Fund Board Programs (SRFB) (04-4-001)

The appropriations in this section are subject to the following conditions and limitations:

~~((1) \$23,187,500 of the appropriation is provided for grants for restoration projects.~~

~~(2) The remainder of))~~ The appropriation is provided solely for grants for other salmon recovery efforts. These grants shall include a grant to any regional recovery board established in the Revised Code of Washington and may include grants for additional restoration projects.

~~((3) By December 1, 2003, the salmon recovery funding board shall provide a report to the house of representatives capital budget committee and the senate ways and means committee that enumerates board expenditures for salmon recovery projects and activities. The report shall include a list of each project that has been approved for funding by the board, and each project that was submitted on a lead entity habitat project schedule and not funded by the board. Each list shall include the project, project description, project sponsor, status of the project including expenditures to date and completion date, and matching funds that were available for the project. The report shall also include a list and description of all other activities funded by the board including consulting contracts, lead entity and regional recovery board contracts, a description of each of these activities, and the timeline for their completion.))~~

Appropriation:

General Fund—Federal	\$34,375,000
State Building Construction Account—State	\$12,000,000
Subtotal Appropriation	\$46,375,000
 Prior Biennia (Expenditures)	 \$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$46,375,000

*Sec. 122. 2003 1st sp.s. c 26 s 354 (uncodified) is amended to read as follows:

FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Washington Wildlife and Recreation Program (WWRP) (04-4-002)

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation is provided for the approved list of projects in LEAP capital document No. 2003-45, as developed on June 4, 2003, and LEAP capital document No. 2004-17, as developed on February 25, 2004. In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the committee shall file quarterly project progress reports with the office of financial management.

(2) It is the intent of the legislature that any moneys remaining unexpended shall be reappropriated in the 2005-07 biennium, but no reappropriations shall be made in subsequent biennia.

(3) The department of natural resources shall manage lands acquired through project No. 02-1090, "Bone river and Niawiakum river natural area preserves," as natural resources conservation areas under chapter 79.71 RCW.

(4) Up to \$95,000 of the outdoor recreation account—state and up to \$95,000 of the habitat conservation account—state appropriations are provided

to implement chapter ... (Substitute Senate Bill No. 6242), Laws of 2004. If this bill is not enacted by April 15, 2004, this subsection (4) shall lapse.

(5) The committee shall develop or revise project evaluation criteria based on the provisions of chapter ... (Engrossed Substitute House Bill No. 2275 or Second Substitute Senate Bill No. 6082), Laws of 2004, as it prepares its project recommendations for the next budget cycle.

Appropriation:

Outdoor Recreation Account—State	\$22,500,000
Habitat Conservation Account—State.....	\$22,500,000
Subtotal Appropriation	\$45,000,000
 Prior Biennia (Expenditures)	 \$0
Future Biennia (Projected Costs).....	\$120,000,000
TOTAL	\$165,000,000

*Sec. 122 was partially vetoed. See message at end of chapter.

Sec. 123. 2003 1st sp.s. c 26 s 394 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Job Creation and Infrastructure Projects (03-1-001)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The reappropriation shall support the projects as listed in section 212, chapter 238, Laws of 2002.

(2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	(\$970,000)
	\$1,285,000
 Prior Biennia (Expenditures)	 (\$2,070,000)
	\$1,755,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$3,040,000

Sec. 124. 2003 1st sp.s. c 26 s 398 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Hatchery Reform, Retrofits, and Condition Improvement (04-1-001)

The appropriations in this section are subject to the following conditions and limitations:

(1) \$400,000 of the state building construction account—state appropriation is provided solely for Naselle hatchery. A portion of this amount may be used for maintenance and minor projects at fish hatcheries other than Naselle to the extent such use results in corresponding savings in the operating budget that shall be transferred to support of Naselle operations.

(2) \$1,300,000 of the state building construction account—state appropriation is provided solely for the Tokul creek hatchery.

(3) The wildlife account—state appropriation is provided solely for design of capture and acclimation ponds at Grandy creek.

Appropriation:

General Fund—Federal	\$4,500,000
General Fund—Private/Local	\$1,500,000
Wildlife Account—State	\$200,000
State Building Construction Account—State	\$7,700,000
Subtotal Appropriation	\$13,900,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,900,000

Sec. 125. 2003 1st sp.s. c 26 s 406 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Minor Works (02-2-001) and (00-2-011)

Reappropriation:

Forest Development Account—State	\$256,230
Resources Management Cost Account—State	\$482,466
State Building Construction Account—State	\$455,575
Agricultural College Trust Management Account—State	\$68,950
Subtotal Reappropriation	\$1,263,221
Prior Biennia (Expenditures)	\$6,006,779
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,270,000

Sec. 126. 2003 1st sp.s. c 26 s 408 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Minor Works—Facility Preservation (04-1-002)

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall report to the office of financial management by September 1, 2004, all minor works expenditures over \$100,000 for fiscal year 2004 using funds appropriated under this section.

(2) By December 1, 2004, the office of financial management shall report to the capital budget related committees of the legislature all expenditures under subsection (1) of this section that were not on a minor works list approved by the office of financial management at the time of the expenditure.

Appropriation:

Forest Development Account—State	\$224,900
Resources Management Cost Account—State	\$389,700
State Building Construction Account—State	\$150,000
Agricultural College Trust Management Account—State	\$49,200
Subtotal Appropriation	\$813,800
Prior Biennia (Expenditures)	\$0

Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$813,800

Sec. 127. 2003 1st sp.s. c 26 s 501 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL

Seattle Toxicology Lab (~~((00-2-009))) (00-2-008)~~

Appropriation:

State Building Construction Account—State	\$800,000
Prior Biennia (Expenditures).....	\$12,059,864
Future Biennia (Projected Costs).....	\$1,655,000
TOTAL.....	\$14,514,864

Sec. 128. 2003 1st sp.s. c 26 s 604 (uncodified) is amended to read as follows:

FOR THE STATE BOARD OF EDUCATION

Resource Efficiency Pilot Project (04-4-851)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$1,350,000 of this appropriation is provided solely for costs directly associated with the design and construction of five public K-12 schools that meet or exceed comprehensive design standards for high performance and sustainable school building standards, including up to five percent of the amount in this subsection for costs associated with administering the five pilot projects.

(2) Up to \$150,000 of this appropriation shall be used to:

(a) Develop a technical manual to facilitate the use of high performance and sustainable school building standards by K-12 schools;

(b) Develop incentives for school districts participating in this program to construct buildings that achieve a significant life-cycle savings over current practices;

(c) Integrate the technical manual with other applicable K-12 construction manuals, rules, and policies;

(d) Report to the appropriate standing committees of the legislature on the potential for sustainable building practices to reduce expenditures for school construction.

The board may contract with one or more entities to fulfill the requirements of subsection (2) of this section and may require match funding of up to one hundred percent for participating nongovernmental entities.

Appropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$1,500,000

Sec. 129. 2003 1st sp.s. c 26 s 615 (uncodified) is amended to read as follows:

FOR THE STATE SCHOOL FOR THE BLIND

Kennedy, Dry, and Irwin Buildings Preservation (04-1-002)

The appropriation in this section is subject to the following conditions and limitations: Up to \$1,700,000 may be used for a predesign and design of a replacement for the Kennedy facility. Before design funds may be released, the office of financial management, after consultation with the legislature, must agree with the findings of the predesign.

Appropriation:

State Building Construction Account—State	\$2,279,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,279,000

Sec. 130. 2003 1st sp.s. c 26 s 743 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Puget Sound Community College: Humanities/General Education Complex (00-2-679)

Reappropriation:

~~((Education Construction Account—State))~~

State Building Construction Account—State	\$1,092,690
---	-------------

Appropriation:

State Building Construction Account—State	\$17,350,248
Prior Biennia (Expenditures)	\$812,310
Future Biennia (Projected Costs)	\$0
TOTAL	\$19,255,248

NEW SECTION. Sec. 131. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

Leadbetter Acquisition/Restoration (05-1-850)

Reappropriation:

General Fund—Federal	\$107,933
Prior Biennia (Expenditures)	\$886,067
Future Biennia (Projected Costs)	\$0
TOTAL	\$994,000

Sec. 132. 2003 1st sp.s. c 26 s 380 (uncodified) is amended to read as follows:

FOR THE STATE CONSERVATION COMMISSION

Dairy Nutrient Management Grants Program (02-4-002)

The appropriations in this section are subject to the following conditions and limitations: The appropriations may be used for all animal waste management programs.

Reappropriation:

Water Quality Account—State	\$350,000
-----------------------------	-----------

Appropriation:

Water Quality Account—State	\$1,600,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,950,000

Sec. 133. 2003 1st sp.s. c 26 s 738 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Highline Community College: Higher Ed Center/Childcare (00-2-678)

The appropriations in this section are subject to the following conditions and limitations: Up to \$550,000 may be used to develop additional parking needed to support this project.

Reappropriation:

State Building Construction Account—State	\$985,949
---	-----------

Appropriation:

Gardner-Evans Higher Education Construction Account—State	(\$14,654,000)
	<u>\$12,242,000</u>

Community and Technical College Capital Projects Account—State	(\$3,898,000)
	<u>\$6,860,000</u>

Subtotal Appropriation	(\$18,552,000)
	<u>\$19,102,000</u>

Prior Biennia (Expenditures)	\$1,359,051
Future Biennia (Projected Costs)	\$0
TOTAL	(\$20,897,000)
	<u>\$21,447,000</u>

Sec. 134. 2003 1st sp.s. c 26 s 805 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Minor Works - Program (Minor Improvements) (04-2-130)

The appropriation in this section is subject to the following conditions and limitations:

(1) The state board for community and technical colleges shall report to the office of financial management by September 1, 2004, all minor works expenditures over \$100,000 for fiscal year 2004 using funds appropriated under this section.

(2) By December 1, 2004, the office of financial management shall report to the capital budget related committees of the legislature all expenditures under subsection (1) of this section that were not on a minor works list approved by the office of financial management at the time of the expenditure.

Appropriation:

Community and Technical College Capital Projects Account—State	(\$14,979,217)
--	----------------

	\$13,466,217
State Building Construction Account—State	\$1,513,000
Subtotal Appropriation	\$14,979,217
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$40,000,000
TOTAL	\$54,979,217

Sec. 135. 2003 1st sp.s. c 26 s 782 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM
 Job Creation and Infrastructure Projects (03-1-001)

The reappropriation and appropriation in this section ((is)) are subject to the following conditions and limitations:

(1) The reappropriation in this section shall support the projects as listed in section 224, chapter 238, Laws of 2002.

(2) With the following exception, the legislature does not intend to reappropriate amounts not expended by June 30, 2005: CWU/Wenatchee higher education center, also known as Van Tassel center addition or the Wenatchee Valley College portable replacement project. (04-1-201).

Reappropriation:

State Building Construction Account—State	\$865,437
Education Construction Account—State	\$10,209,178
Subtotal Reappropriation	\$11,074,615
Prior Biennia (Expenditures)	\$15,525,560
Future Biennia (Projected Costs)	\$0
TOTAL	\$26,600,175

*Sec. 136. 2003 1st sp.s. c 26 s 816 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM
 Seattle Central: Replacement North Plaza Building (04-1-275)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is solely for the design, construction, and equipment for information technology space. As presented to the legislature, the space for this program is created by adding a floor to another structure.

(2) The state board for community and technical colleges shall submit major project reports on this project to the office of financial management with copies to the legislative fiscal committees in accordance with the established procedures for major project reports.

(3) Following occupancy of the project, the state board for community and technical colleges, with the assistance of the department of general administration and the community college, shall submit a final budget reconciliation by fund source for all costs of the project, including equipment and furnishings.

Appropriation:

<i>State Building Construction Account—State</i>	\$4,976,200
<i>Prior Biennia (Expenditures)</i>	\$0
<i>Future Biennia (Projected Costs)</i>	\$0
TOTAL	\$4,976,200

*Sec. 136 was vetoed. See message at end of chapter.

**Sec. 137. 2003 1st sp.s. c 26 s 821 (uncodified) is amended to read as follows:*

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Tacoma Community College: Renovation - Building 7 (04-1-313)**

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is solely for the design, construction, and equipment for an extensive renovation of an instructional building and its systems.

(2) The state board for community and technical colleges shall submit major project reports on this project to the office of financial management with copies to the legislative fiscal committees in accordance with the established procedures for major project reports.

(3) Following occupancy of the project, the state board for community and technical colleges, with the assistance of the department of general administration and the community college, shall submit a final budget reconciliation by fund source for all costs of the project, including equipment and furnishings.

Appropriation:

<i>State Building Construction Account—State</i>	\$4,988,000
<i>Prior Biennia (Expenditures)</i>	\$0
<i>Future Biennia (Projected Costs)</i>	\$0
TOTAL	\$4,988,000

*Sec. 137 was vetoed. See message at end of chapter.

**PART 2
CAPITAL PROJECTS/PROGRAMS/ENHANCEMENTS**

Sec. 201. 2003 1st sp.s. c 26 s 130 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Drinking Water Assistance Account (04-4-002)

The appropriations in this section are subject to the following conditions and limitations:

(1) Expenditures of the appropriation shall comply with RCW 70.119A.170.

(2)(a) The state building construction account appropriation is provided solely to provide assistance to counties, cities, and special purpose districts to identify, acquire, and rehabilitate public water systems that have water quality problems or have been allowed to deteriorate to a point where public health is an issue. Eligibility is confined to applicants that already own at least one group A

public water system and that demonstrate a track record of sound drinking water utility management. Funds may be used for: Planning, design, and other preconstruction activities; system acquisition; and capital construction costs.

(b) The state building construction account appropriation must be jointly administered by the department of health, the public works board, and the department of community, trade, and economic development using the drinking water state revolving fund loan program as an administrative model. In order to expedite the use of these funds and minimize administration costs, this appropriation must be administered by guidance, rather than rule. Projects must generally be prioritized using the drinking water state revolving fund loan program criteria. All financing provided through this program must be in the form of grants that must partially cover project costs. The maximum grant to any eligible entity may not exceed twenty-five percent of the funds allocated to this appropriation.

Appropriation:

Drinking Water Assistance Account—State	((\$8,500,000))
	<u>\$12,700,000</u>
State Building Construction Account—State	\$4,000,000
Subtotal Appropriation	((\$12,500,000))
	<u>\$16,700,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$32,400,000
TOTAL	((\$44,900,000))
	<u>\$49,100,000</u>

Sec. 202. 2003 1st sp.s. c 26 s 134 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Housing Assistance, Weatherization, and Affordable Housing (04-4-003)

The appropriation in this section is subject to the following conditions and limitations:

- (1) At least \$9,000,000 of the appropriation is provided solely for weatherization administered through the energy matchmakers program.
- (2) \$5,000,000 of the appropriation is provided solely to promote development of safe and affordable housing units for persons eligible for services from the division of developmental disabilities within the department of social and health services.
- (3) \$2,000,000 of the appropriation is provided solely for grants to nonprofit organizations and public housing authorities for revolving loan, self-help housing programs for low and moderate income families.
- (4) \$1,000,000 of the appropriation is provided solely for shelters, transitional housing, or other housing facilities for victims of domestic violence.
- (5) \$8,000,000 of the appropriation is provided solely for facilities housing low-income migrant, seasonal, or temporary farmworkers. It is the intent of the legislature that operation of the facilities built under this section be in compliance with 8 U.S.C. Sec. 1342. The department shall minimize the amount of these funds that are utilized for staff and administrative purposes or other

operational expenses. The department shall work with the farmworker housing advisory committee to prioritize funding of projects to the areas of highest need. Funding may also be provided, to the extent qualified projects are submitted, for health and safety projects.

(6) \$5,000,000 of the appropriation is provided solely for the development of emergency shelters and transitional housing opportunities for homeless families with children. The department shall minimize the amount of funds that are utilized for staff and administrative purposes or other operational expenses.

(7) Up to \$1,000,000 of the appropriation is provided solely to help capitalize a self-insurance risk pool for nonprofit corporations in Washington that develop housing units for low-income persons and families after the pool is approved by the state risk manager. The department shall develop a plan to create this self-insurance risk pool for submission to the office of the risk manager no later than December 1, 2004. The department shall establish an advisory committee of interested stakeholders to assist the department in developing the plan required under this subsection. The plan shall provide that the self-insurance risk pool shall repay to the state the appropriation under this section whenever the capitalization exceeds the minimum requirements established by the office of the risk manager.

Appropriation:

State Taxable Building Construction Account—

State	(\$80,000,000)
	\$81,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$200,000,000
TOTAL	(\$280,000,000)
	\$281,000,000

****NEW SECTION. Sec. 203. If chapter . . . (Second Substitute House Bill No. 1840), Laws of 2004 is not enacted by April 15, 2004, section 202 of this act is null and void.***

****Sec. 203 was vetoed. See message at end of chapter.***

Sec. 204. 2003 1st sp.s. c 26 s 151 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Local/Community Projects (04-4-011)

The appropriation in this section is subject to the following conditions and limitations:

(1) The projects must comply with RCW 43.63A.125(2)(c) and other standard requirements for community projects administered by the department, except that the Highline historical society project is land acquisition.

(2) The appropriation is provided for the following list of projects:

Local Community Project List	Location	Amount
Art Crate field	Betbel	\$500,000
Asia Pacific cultural center	Tacoma	\$100,000

Asotin aquatic center	Clarkston	\$500,000
Auburn YMCA	Auburn	\$250,000
<u>Boys and girls clubs of Snohomish county</u>	<u>Lake Stevens</u>	<u>\$350,000</u>
Burke museum	Seattle	\$500,000
Capital arts theater and sculpture garden	Olympia	\$250,000
Capitol theater	Yakima	\$500,000
Chinese reconciliation project	Tacoma	\$300,000
Clark lake park	Kent	\$400,000
Colman school	Seattle	\$300,000
Crossroads community center	Bellevue	\$500,000
Eastside heritage center	Bellevue	\$200,000
Eatonville city projects	Eatonville	\$150,000
Edgewood sewer	Edgewood	\$100,000
Edmonds center for the arts	Edmonds	\$500,000
<u>El Centro de la Raza</u>	<u>Seattle</u>	<u>\$117,000</u>
Farmers market and maritime park	Bellingham	\$500,000
Firstenburg community center	Vancouver	\$500,000
Former capitol historical marker	Olympia	\$2,000
<u>Fort Vancouver national historic reserve</u>	<u>Vancouver</u>	<u>\$250,000</u>
Friends of the falls/Great Gorge park	Spokane	\$250,000
Frontier park	Pierce county	\$165,000
GAR cemetery	Seattle	\$5,000
Graham fire district emergency services center	Graham	\$150,000
Grandmother's hill	Tukwila	\$300,000
Highline historical society	Highline	\$300,000
Historical cabins project	Federal Way	\$106,000
Hugs foundation	Raymond	\$21,500
<u>Northwest kidney centers</u>	<u>Bellevue</u>	<u>\$300,000</u>
Museum of flight - WWI and WWII	Seattle	\$500,000
Naval museum	Bremerton	\$500,000
New Phoebe house	Tacoma	\$25,000
Northwest orthopaedic institute	Tacoma	\$200,000
Paramount theater	Seattle	\$250,000
Rainier historical museum/Community center	Rainier	\$20,000
Ritzville public development authority	Ritzville	\$50,000

Seahurst ELC	Burien	\$100,000
South Hill community park	Pierce county	\$250,000
<u>South Lake Union park</u>	<u>Seattle</u>	<u>\$100,000</u>
South Wenatchee family services center	Wenatchee	\$400,000
Stonerose interpretive center	Republic	\$8,000
Sweetwater creek restoration	Hood Canal	\$500,000
Tacoma seawall	Tacoma	\$250,000
Thyme patch park	Seattle	\$5,000
ToscoSports complex	Ferndale	\$500,000
Ustalady beach acquisition	Island county	\$135,000
Veterans memorial museum	Chehalis	\$255,000
West Hylebos state park	Federal Way	\$250,000
White Center apprenticeship	White Center	\$250,000
Woodway wildlife reserve	Woodway	\$300,000
Youth development center	Federal Way	\$100,000
TOTAL		(((\$12,197,500)) <u>\$13,314,500</u>)

Appropriation:

State Building Construction Account—State	(((\$12,197,500))
	<u>\$13,314,500</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	(((\$12,197,500)) <u>\$13,314,500</u>)

Sec. 205. 2003 1st sp.s. c 26 s 135 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Lewis and Clark Confluence Project (04-2-954)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section shall meet the requirements of section 151(1) of this act.

Appropriation:

State Building Construction Account—State	(((\$3,000,000))
	<u>\$5,000,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	(((\$3,000,000)) <u>\$5,000,000</u>)

NEW SECTION. Sec. 206. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Port of Walla Walla Land Acquisition (04-4-961)

Appropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 207. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT

Capital Budget and Facilities Management Enhancement (05-2-850)

The appropriation in this section is subject to the following conditions and limitations: The purpose of this appropriation is to implement the recommendations of the higher education facilities preservation study and other related budget and financial management system improvements. These improvements should also be applicable to nonhigher education institutions.

Appropriation:

Education Construction Account—State	\$150,000
Charitable, Educational, Reformatory, and Penal Institutions Account—State	\$15,000
Subtotal Appropriation	\$165,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$165,000

NEW SECTION. Sec. 208. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Cherberg Building: Rehabilitation (02-1-005)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is for the purpose of furthering the John A. Cherberg building rehabilitation project, including but not limited to the following: Project final design and initial phase of reconstruction; purchase and remodel of the two modular buildings currently owned by the Legislative building rehabilitation project; and remodel of a portion of the Joel M. Pritchard building for use as swing space during reconstruction.

Appropriation:

State Building Construction Account—State	\$5,000,000
Prior Biennia (Expenditures)	\$695,000
Future Biennia (Projected Costs)	\$15,429,000
TOTAL	\$21,124,000

Sec. 209. 2003 1st sp.s. c 26 s 162 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Legislative Building: Rehabilitation and Capital Addition (01-1-008)

The appropriations in this section are subject to the following conditions and limitations: The reappropriation in this section is subject to the conditions and limitations of section 109, chapter 238, Laws of 2002 and section 904, chapter 10, Laws of 2003.

Reappropriation:

Capital Historic District Construction	
Account—State	\$68,450,000
State Building Construction Account—State	\$6,000,000
Subtotal Reappropriation	\$74,450,000

Appropriation:

Thurston County Capital Facilities Account—State	(\$2,300,000)
	\$4,800,000
Prior Biennia (Expenditures)	\$26,031,000
Future Biennia (Projected Costs)	\$0
TOTAL	(\$102,781,000)
	\$105,281,000

NEW SECTION. Sec. 210. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Legislative Building Technology Infrastructure (05-4-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is for the joint legislative system committee's costs of equipping the legislative building for technology infrastructure, including computer wiring closets, audio and video communications, and wireless computer capabilities.

Appropriation:

State Building Construction Account—State	\$1,400,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,400,000

NEW SECTION. Sec. 211. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE CRIMINAL JUSTICE TRAINING CENTER

Minor Works - Facility Preservation (05-1-850)

Appropriation:

State Building Construction Account—State	\$50,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$50,000

Sec. 212. 2003 1st sp.s. c 26 s 267 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

Minor Works - Health, Safety, and Code (04-1-021)

Appropriation:

State Building Construction Account—State	(((\$4,000,000))
	<u>\$3,750,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	(((\$4,000,000))
	<u>3,750,000</u>

NEW SECTION. Sec. 213. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

Washington Corrections Center for Women: Sewer Connection Fee (05-2-002)

Appropriation:

State Building Construction Account—State	\$140,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$140,000

Sec. 214. 2003 1st sp.s. c 26 s 273 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

Master Planning (04-4-950)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is provided solely for the department to contract for master planning services.

(2) The department shall incorporate the integration of operating and capital in the scope of work and master planning effort to include a minimum six-year planning horizon.

(3) The master plan shall include an analysis of forecasted offender population growth, gender, custody level, population and medical needs, infrastructure needs, and a system-wide view of facility needs. Alternatives should be generated that include the management of excess capacity, such as rental beds, regional jails, and other options to add capacity to the existing system at the same or a lower cost than new construction of prison beds and eventual operating costs. These alternatives shall include an exploration of using other state facilities that are currently being reviewed as part of a master planning process.

(4) The plan shall consider strategies to integrate capital and operating planning and improve efficiencies in both areas.

~~((6))~~ (5) The department shall not deduct any portion of this amount for administrative costs related to new staffing.

Appropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 215. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

Statewide: Water System Plans (05-I-003)

Appropriation:

State Building Construction Account—State	\$110,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$110,000

***Sec. 216.** 2003 1st sp.s. c 26 s 304 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Local Toxics Grants to Locals for Cleanup and Prevention (04-4-008)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$8,000,000 of the appropriation is provided solely for a grant to the port of Ridgefield to continue clean-up actions on port-owned property.

(2) \$1,800,000, or as much thereof as may be necessary, of the appropriation is provided solely for a grant to Klickitat county for removal and disposal or recycling of vehicle tires. The grant shall include conditions that require Klickitat county to contract for the vehicle tire removal following a competitive bidding process. No funds from the grant may be expended for any remediation activities other than vehicle tire removal, disposal, and recycling.

Appropriation:

Local Toxics Control Account—State	(\$45,000,000)
	\$47,050,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	(\$45,000,000)
	\$47,050,000

***Sec. 216 was partially vetoed. See message at end of chapter.**

NEW SECTION. Sec. 217. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Water Conveyance Infrastructure Projects (05-2-850)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$1,500,000 of the state building construction account—state appropriation is provided solely for water conveyance facilities to implement the 1996 memorandum of agreement regarding utilization of Skagit river basin water resources for in-stream and out-of-stream purposes.

(2) \$300,000 of the state and local improvements revolving account—state appropriation is provided solely for the Bertrand watershed improvement district to address unpermitted water use and environmental compliance and fund early action planning, feasibility studies, and construction of early action projects.

(3) \$1,600,000 of the state building construction account—state appropriation is provided solely for the Middle Fork Nooksack river water diversion system.

(4) First priority from the remaining appropriation, \$1,475,000 from the state and local improvements account—state appropriation, \$350,000 from the state building construction account—state appropriation, and the water quality account—state appropriation, shall be the following projects: Piping in the upper Yakima river; piping for Bull canal; piping for the Lowden number 2 ditch; diversion reconstruction and piping in Beaver creek; conjunctive use of surface and ground water in the Chewuch river; replacing surface diversions with wells and consolidation of diversions in the Entiat river; replacing a check dam with a siphon on Little Naneum creek; consolidate diversions on Simcoe creek; and ground water recharge of reclaimed water on Kitsap peninsula. The purpose of this funding is to develop projects and take other water management actions that benefit streamflows and enhance water supply to resolve conflicts among water needs for municipal water supply, agricultural water supply, and fish restoration. The streamflow or other public benefits secured from these projects should be commensurate with the investment of state funds.

(5) \$50,000 of the state building construction account—state is provided solely for Ahtanum creek watershed restoration and Pine Hollow reservoir.

Appropriation:

State and Local Improvements Revolving Account

(Water Supply Facilities)—State	\$1,775,000
State Building Construction Account—State	\$3,500,000
Water Quality Account—State	\$525,000
Subtotal Appropriation	\$5,800,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,800,000

NEW SECTION. Sec. 218. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Sunnyside Valley Irrigation District Water Conservation (05-2-851)

Appropriation:

State and Local Improvements Revolving Account

(Water Supply Facilities)—State	\$525,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$8,705,000

TOTAL \$9,230,000

Sec. 219. 2003 1st sp.s. c 26 s 310 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Water Irrigation Efficiencies (01-H-010)

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation and reappropriation are provided solely to provide grants to conservation districts to assist the agricultural community to implement water conservation measures and irrigation efficiencies in the 16 critical basins. A conservation district receiving funds shall manage each grant to ensure that a portion of the water saved by the water conservation measure or irrigation efficiency will be placed as a purchase or a lease in the trust water rights program to enhance instream flows. The proportion of saved water placed in the trust water rights program must be equal to the percentage of the public investment in the conservation measure or irrigation efficiency. The percentage of the public investment may not exceed 85 percent of the total cost of the conservation measure or irrigation efficiency. In awarding grants, a conservation district shall give first priority to family farms.

(2) By February 1, ((2003)) 2004, the state conservation commission shall submit a progress report to the appropriate standing committees of the legislature on: (a) The amount of public funds expended from this section; and (b) the location and amount of water placed in the trust water rights program pursuant to this section.

(3) \$344,000 of the water quality account reappropriation is provided for water leases or projects in the Yakima river basin for aquifer recharge necessary to allow the use of drought wells to meet essential irrigation needs. Essential irrigation needs is defined as eighty percent of the water a farmer would ordinarily receive from the irrigation district, less the water that is actually delivered and regardless of crops grown.

(4) \$85,000 of the state building construction account—state appropriation is for the purchase of pipe to protect fish during the noxious weed control board of Grant county's yellow nutsedge eradication efforts.

Reappropriation:

State and Local Improvements Revolving Account	
(Water Supply Facilities)—State	\$2,650,000
Water Quality Account—State	((\$3,117,000))
	<u>\$2,148,708</u>
Subtotal Reappropriation	((\$5,767,000))
	<u>\$4,798,708</u>

Appropriation:

State Building Construction Account—State	\$1,000,000
<u>State and Local Improvements Revolving Account</u>	
(Water Supply Facilities)—State	\$1,500,000
Subtotal Appropriation	<u>\$2,500,000</u>
Prior Biennia (Expenditures)	\$3,233,000

Future Biennia (Projected Costs)	\$0
TOTAL	(\$10,000,000)
	<u>\$10,531,708</u>

NEW SECTION. Sec. 220. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Quad City Water Right Mitigation (05-2-852)

Appropriation:

State Building Construction Account—State	\$2,200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,200,000

Sec. 221. 2003 1st sp.s. c 26 s 315 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Water Pollution Control Program (04-4-002)

Appropriation:

Water Pollution Control Revolving Account—State	(\$66,663,333)
	<u>\$81,054,333</u>
Water Pollution Control Revolving Account—Federal	\$44,466,666
Subtotal Appropriation	(\$111,129,999)
	<u>\$125,520,999</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$462,000,000
TOTAL	(\$573,129,999)
	<u>\$587,520,999</u>

Sec. 222. 2003 1st sp.s. c 26 s 333 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

Major Park Renovation - Cama Beach (02-1-022)

The appropriations in this section are subject to the following conditions and limitations:

(1) The reappropriation in this section is provided to complete electrical power, water, and sewer utilities, and for other park development and renovation.

(2) The state building construction account—state appropriation shall not be allotted until a project request report has been reviewed and approved by the office of financial management.

Reappropriation:

State Building Construction Account—State	\$2,500,000
---	-------------

Appropriation:

Parks Renewal and Stewardship Account—State	\$200,000
---	-----------

<u>State Building Construction Account—State</u>	<u>\$2,000,000</u>
<u>Subtotal Appropriation</u>	<u>\$2,200,000</u>
Prior Biennia (Expenditures)	\$1,500,000
Future Biennia (Projected Costs)	\$0
TOTAL	(\$4,200,000)
	<u>\$6,200,000</u>

NEW SECTION. Sec. 223. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Unforeseen Needs - Special Federal and Local Projects (04-2-024)

Appropriation:

General Fund—Federal	\$250,000
General Fund—Local	\$250,000
Subtotal Appropriation	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$2,000,000
TOTAL	\$2,500,000

Sec. 224. 2003 1st sp.s. c 26 s 356 (uncodified) is amended to read as follows:

FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Firearms and Archery Range Recreation Program (FARR) (04-4-006)

Appropriation:

Firearms Range Account—State	(\$150,000)
	<u>\$250,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	(\$150,000)
	<u>\$250,000</u>

Sec. 225. 2003 1st sp.s. c 26 s 366 (uncodified) is amended to read as follows:

FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Nonhighway and Off-Road Vehicle Activities Program (NOVA) (04-4-004)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$450,000 of the appropriation is provided solely to maintain and operate existing ORV and other recreation facilities, including ORV campgrounds, on lands managed by the department of natural resources for the fiscal year ending June 30, 2004.

(2) \$325,000 of the appropriation is provided solely to the state parks and recreation commission to construct and upgrade trails and trail-related facilities for both motorized and nonmotorized uses within state parks.

Appropriation:

Nonhighway and Off-Road Vehicle Activities Program	
Account—State	(\$6,226,310)
	<u>\$6,926,310</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	(\$6,226,310)
	<u>\$6,926,310</u>

NEW SECTION. Sec. 226. If chapter . . . (Substitute House Bill No. 2919), Laws of 2004, is not enacted by April 15, 2004, section 225 of this act is null and void.

Sec. 227. 2003 1st sp.s. c 26 s 379 (uncodified) is amended to read as follows:

FOR THE STATE CONSERVATION COMMISSION

Conservation Reserve Enhancement Program (00-2-004 and 04-4-004)

The appropriations in this section are subject to the following conditions and limitations:

(1) The reappropriation in this section is for project number 00-2-004. The appropriation is for project number 04-4-004.

(2) The total cumulative dollar value of state conservation reserve enhancement program grant obligations incurred by the conservation commission and conservation districts shall not exceed \$20,000,000, as provided in the conservation reserve enhancement program agreement between the United States department of agriculture, commodity credit corporation, and the state of Washington executed on October 19, 1998, and subsequent amendments.

Reappropriation:

State Building Construction Account—State	\$1,000,000
---	-------------

Appropriation:

State Building Construction Account—State	(\$2,000,000)
	<u>\$6,000,000</u>
Prior Biennia (Expenditures)	(\$0)
	<u>\$4,500,000</u>
Future Biennia (Projected Costs)	(\$0)
	<u>\$8,500,000</u>
TOTAL	(\$4,000,000)
	<u>\$20,000,000</u>

NEW SECTION. Sec. 228. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE STATE CONSERVATION COMMISSION

Conservation Reserve Enhancement Program - Loans (05-4-003)

The appropriation in this section is subject to the following conditions and limitations: The conservation assistance revolving account appropriation is provided solely for loans under the conservation reserve enhancement program.

Appropriation:

Conservation Assistance Revolving Account—State	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

Sec. 229. 2003 1st sp.s. c 26 s 399 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Internal and External Partnership Improvements (04-1-007)

The appropriations in this section are subject to the following conditions and limitations: Expenditures of the appropriation in this section for fencing shall comply with chapter 16.60 RCW.

Appropriation:

General Fund—Federal	(\$4,000,000)
	<u>\$14,800,000</u>
General Fund—Private/Local	\$2,000,000
Game Special Wildlife Account—State	\$50,000
Game Special Wildlife Account—Federal	\$400,000
Game Special Wildlife Account—Private/Local	\$50,000
Subtotal Appropriation	(\$6,500,000)
	<u>\$17,300,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	(\$6,500,000)
	<u>\$17,300,000</u>

Sec. 230. 2003 1st sp.s. c 26 s 397 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Fish and Wildlife Population and Habitat Protection (04-1-002)

The appropriations in this section are subject to the following conditions and limitations:

~~((1))~~ \$400,000 of the wildlife account—state appropriation is provided solely for upland wildlife habitat.

~~((2))~~ \$500,000 of the wildlife account—state appropriation is provided solely to maintain existing mitigation agreements in the Snake river region for upland habitat and additional agreements with landowners.))

Appropriation:

General Fund—Federal	\$2,830,000
General Fund—Private/Local	\$3,500,000
State Building Construction Account—State	\$2,400,000
Wildlife Account—State	(\$1,700,000)
	<u>\$1,200,000</u>
Subtotal Appropriation	(\$10,430,000)
	<u>\$9,930,000</u>
Prior Biennia (Expenditures)	\$0

Future Biennia (Projected Costs).....	\$0
TOTAL.....	(((\$10,430,000)))
	<u>\$9,930,000</u>

Sec. 231. 2003 1st sp.s. c 26 s 389 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Facility, Infrastructure, Lands, and Access Condition Improvement (04-1-003)

The appropriations in this section are subject to the following conditions and limitations:

(1) \$301,000 of the state building construction account appropriation is provided solely for improvements at the Centralia game farm, to include: (1) \$175,000 for a brooder barn to replace numerous houses; (2) \$50,000 to replace flight pens; and (3) \$76,000 to replace to the roofs on several buildings.

(2) The state wildlife account appropriation is provided for the department to conduct a study of functions and operations in locations in Thurston county in an effort to identify efficiencies that would allow a reduction in the number of sites occupied. The study shall identify all operations and functions in Thurston county locations outside the natural resources building. Decisions about alternative uses for the warehouse and annex near the port of Olympia shall not be made until a report is presented to the legislature on efficiencies that will reduce the need for facility space outside the natural resources building.

(3) \$100,000 of the state building construction account—state appropriation is provided solely for fishing and hunting access improvements in Snohomish county, preferably the Snohomish county diking district number 6. The department is directed to take all appropriate and necessary steps to rename a portion of Snohomish county diking district number 6 as "William E. O'Neil Jr. wildlife area." The department shall consult with the interagency committee for outdoor recreation to determine the feasibility of universal access for hunting at this site or at other locations in Snohomish county. These funds are to be used solely for fishing and hunting access purposes, including signage, permanent structures, and improvements to existing access features. The department is directed to work with interested parties to accomplish the foregoing objectives, and to provide a report to the legislature by December 31, 2004, regarding these provisions.

Appropriation:

General Fund—Federal	\$600,000
State Building Construction Account—State	\$3,875,000
<u>Wildlife Account—State</u>	<u>\$100,000</u>
Subtotal Appropriation	(((\$4,475,000)))
	<u>\$4,575,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	(((\$4,475,000)))
	<u>\$4,575,000</u>

Sec. 232. 2003 1st sp.s. c 26 s 390 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Fish and Wildlife Opportunity Improvements (04-2-006)

The appropriations in this section are subject to the following conditions and limitations: \$90,000 of the wildlife account—state appropriation is provided solely for the department of fish and wildlife to identify reforms in environmental permitting programs that implement the alternative mitigation principles embodied in its 2003 wind power guidelines and the work of the transportation permit efficiency and accountability committee. The department shall work cooperatively with the department of ecology to determine how these principles can be applied more broadly to other project types, and how new mitigation opportunities can be applied to implementing instream flow and other habitat programs. The department shall report back to the governor and appropriate committees of the legislature by December 31, 2004.

Appropriation:

<u>Aquatic Lands Enhancement Account—State</u>	<u>\$300,000</u>
Warm Water Game Fish Account—State	\$550,000
Wildlife Account—State	\$1,500,000
Subtotal Appropriation	<u>(\$2,050,000)</u>
	<u>\$2,350,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	<u>(\$2,050,000)</u>
	<u>\$2,350,000</u>

NEW SECTION. Sec. 233. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Grazing Study (05-2-851)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is for the department to contract with the joint legislative audit and review committee for an assessment of the benefits and costs associated with grazing leases or related agreements on lands managed by the department of natural resources. This assessment shall include considerations of the following elements:

- (a) The total annual dollar revenues the department of natural resources receives from grazing leases;
- (b) The total annual dollars the trust beneficiaries receive from the total revenues from such leases;
- (c) A review of any other benefits the department of natural resources estimates as accruing from these grazing leases;
- (d) An estimate of the costs associated with these grazing leases; and
- (e) A review of the department's expenditures for management of grazing lands.

(2) The joint legislative audit and review committee shall also review the legal requirements that apply to the management of these grazing lands and the department's management policies and practices for these lands.

(3) The department of natural resources shall provide the joint legislative audit and review committee with necessary data and information for this assessment on a timely basis. A report of this assessment must be provided to the appropriate legislative fiscal and policy committees by June 30, 2005.

Appropriation:

Resource Management Cost Account—State	\$50,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$50,000

Sec. 234. 2003 1st sp.s. c 26 s 412 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Community and Technical College Trust Land Acquisition (04-2-014)

Appropriation:

Community and Technical College Forest Reserve Account—State	(\$96,000)
	<u>\$365,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	(\$96,000)
	<u>\$365,000</u>

Sec. 235. 2003 1st sp.s. c 26 s 426 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Small Timber Landowner Program (04-2-003)

Appropriation:

State Building Construction Account—State	(\$2,000,000)
	<u>\$4,000,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	(\$2,000,000)
	<u>\$4,000,000</u>

Sec. 236. 2003 1st sp.s. c 26 s 606 (uncodified) is amended to read as follows:

FOR THE STATE BOARD OF EDUCATION

School Construction Assistance Grants (04-4-001)

The appropriation in this section is subject to the following conditions and limitations:

(1) For state assistance grants for purposes of calculating square foot eligibility, kindergarten student headcount shall not be reduced by fifty percent.

(2) \$2,000,000 from this appropriation is provided for skills centers capital improvements. Skills centers shall submit a budget plan to the state board of education and the appropriate fiscal committees of the legislature for proposed expenditures and the proposed expenditures shall conform with state board of education rules and procedures for reimbursement of capital items. Funds not expended by June 30, 2005, shall lapse.

(3) \$32,868,105 of this appropriation is provided solely to increase the area cost allowance by \$15.00 per square foot for grades K-12 for fiscal year 2004 and an additional \$4.49 per square foot for grades K-12 for fiscal year 2005.

(4) The appropriation in this section includes the amounts deposited in the common school construction account under section 603 of this act.

(5) \$2,500,000 of this appropriation is provided solely for design and construction of additional space at the new market vocational skills center.

(6) Beginning in their 2005-07 capital budget submittal to the governor, the state board of education, in consultation with the Washington state skills centers, shall develop and submit a prioritized list of capital preservation, equipment with long life-cycles, and space expansion and improvement projects. The list shall be developed based on, but not limited to, the following factors: Projected enrollment growth; local school district participation and financial support; changes in the business and industry needs in the state; and efficiency in program delivery and operations.

Appropriation:

Common School Construction Account—State	((\$399,768,513))
	<u>\$402,268,513</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	((\$1,258,456,614))
	<u>\$1,858,456,614</u>
TOTAL	((\$2,258,225,127))
	<u>\$2,260,725,127</u>

NEW SECTION. Sec. 237. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE STATE BOARD OF EDUCATION

Apple Award Construction Achievement Grants (05-4-850)

The appropriation in this section is subject to the following conditions and limitations: Grants of \$25,000 each are provided to four public elementary schools that have the greatest combined average increase in the percentage of students meeting the fourth grade reading, mathematics, and writing standards on the Washington assessment of student learning from 2002-03 to 2003-04. The grants shall be used for capital construction purposes as determined by students in the schools. The funds may be used for capital construction projects on school property or on other public property in the community, city, or county in which the school is located.

Appropriation:

Education Construction Account—State	\$100,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0

TOTAL \$100,000

NEW SECTION. Sec. 238. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

UW Bothell/Cascadia CC - SR 522 Off Ramp (02-2-014)

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State.	\$1,750,000
Prior Biennia (Expenditures).	\$110,000
Future Biennia (Projected Costs).	\$0
TOTAL	\$1,860,000

NEW SECTION. Sec. 239. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

Infectious Disease Laboratory Facilities (05-2-850)

The appropriation in this section is subject to the following conditions and limitations: Allotment for this appropriation is contingent on the commitment of at least four million dollars in matching federal funds for this facility.

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State.	\$4,000,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$0
TOTAL	\$4,000,000

Sec. 240. 2003 1st sp.s. c 26 s 628 (uncodified) is amended to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

UW Emergency Power Expansion - Phase II (04-1-024)

~~((Reappropriation:~~

~~University of Washington Building Account—State \$700,000))~~

Appropriation:

State Building Construction Account—State	\$3,500,000
University of Washington Building Account—State.	(\$2,448,000)
	<u>\$3,148,000</u>
Subtotal Appropriation	(\$5,948,000)
	<u>\$6,648,000</u>
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	(\$7,813,164)
	<u>\$0</u>
TOTAL	(\$14,161,164)
	<u>\$6,648,000</u>

Sec. 241. 2003 1st sp.s. c 26 s 633 (uncodified) is amended to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

UW Campus Communications Infrastructure (04-1-011)

Appropriation:

State Building Construction Account—State	\$5,000,000
<u>Gardner-Evans Higher Education Construction</u>	
<u>Account—State.....</u>	<u>\$2,000,000</u>
<u>Subtotal Appropriation</u>	<u>\$7,000,000</u>

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs).....	(\$20,000,000)
	<u>\$18,000,000</u>

TOTAL

NEW SECTION. Sec. 242. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

Classroom Improvements (05-1-850)

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State.....	\$4,000,000

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs).....	\$0

TOTAL

NEW SECTION. Sec. 243. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

Guthrie Hall Psychology Facilities Renovation (05-2-851)

The appropriation in this section is subject to the following conditions and limitations: Allotment for this appropriation is contingent on the commitment of at least three million dollars in matching federal funds for this facility.

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State.....	\$3,000,000

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs).....	\$0

TOTAL

NEW SECTION. Sec. 244. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR WASHINGTON STATE UNIVERSITY

WSU Spokane Riverpoint - Academic Center Building: New Facility (00-2-906)

The appropriation in this section is subject to the following conditions and limitations: It is the intent of the legislature that the project funded in this section shall constitute the university's highest capital project priority through the 2005-07 biennium.

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State	\$31,600,000
Prior Biennia (Expenditures)	\$2,250,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$33,850,000

**NEW SECTION. Sec. 245. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:*

FOR WASHINGTON STATE UNIVERSITY

WSU Pullman - Wastewater Reclamation Project: Infrastructure (05-2-850)

The appropriation in this section is subject to the following conditions and limitations: By June 30, 2004, Washington State University and the city of Pullman shall submit a report to the office of financial management and standing capital budget committees of the house of representatives and the senate that: (a) Summarizes the strategy for completion of future phases of this project and identifies all other state, federal, local, and private funding sources including grants and loans; (b) summarizes the phasing and costs for this project and future phases; and (c) identifies water conservation measures to be enacted by Washington State University and the city of Pullman.

Appropriation:

Gardner-Evans Higher Education Construction

Account—State	\$3,400,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$7,063,000
TOTAL	\$10,463,000

*Sec. 245 was vetoed. See message at end of chapter.

Sec. 246. 2003 1st sp.s. c 26 s 659 (uncodified) is amended to read as follows:

FOR EASTERN WASHINGTON UNIVERSITY

EWU Senior Hall Renovation (00-1-003)

Reappropriation:

State Building Construction Account—State	(\$730,000)
	<u>\$681,116</u>

Appropriation:

((State Building Construction Account—State	\$6,000,000))
Gardner-Evans Higher Education Construction	
Account—State	<u>\$14,120,012</u>
Prior Biennia (Expenditures)	(\$581,000)
	<u>\$629,884</u>
Future Biennia (Projected Costs)	(\$8,480,315)
	<u>\$0</u>
TOTAL	<u>(\$15,791,315)</u>
	<u>\$15,431,012</u>

Sec. 247. 2003 1st sp.s. c 26 s 678 (uncodified) is amended to read as follows:

FOR CENTRAL WASHINGTON UNIVERSITY
CWU/Des Moines Higher Education Center (02-2-101)

Reappropriation:	
State Building Construction Account—State	\$2,500,000
Appropriation:	
State Building Construction Account—State	\$1,438,000
((Community and Technical College Capital Projects	
Account—State)) Gardner-Evans Higher Education	
Construction Account—State	((2,962,000))
	<u>\$4,962,000</u>
Central Washington University Capital Projects	
Account—State	\$3,600,000
Subtotal Appropriation	((8,000,000))
	<u>\$10,000,000</u>
Prior Biennia (Expenditures)	\$75,000
Future Biennia (Projected Costs)	\$0
TOTAL	((10,575,000))
	<u>\$12,575,000</u>

NEW SECTION. Sec. 248. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR CENTRAL WASHINGTON UNIVERSITY
Minor Works - Health, Safety, and Code Requirements (05-1-850)

Appropriation:	
Central Washington University Capital Projects	
Account—State	\$450,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$450,000

NEW SECTION. Sec. 249. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR CENTRAL WASHINGTON UNIVERSITY
Minor Works - Infrastructure (05-1-851)

Appropriation:	
Central Washington University Capital Projects	
Account—State	\$713,500
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$713,500

NEW SECTION. Sec. 250. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR CENTRAL WASHINGTON UNIVERSITY

CWU/Wenatchee Higher Education Center (05-2-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is to fund Central Washington University's portion of a shared center and student service addition to Van Tassell center on the Wenatchee Valley Community College campus that replaces the space currently leased by Central Washington University.

Appropriation:

Gardner-Evans Higher Education Construction Account—

State	\$1,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

Sec. 251. 2003 1st sp.s. c 26 s 695 (uncodified) is amended to read as follows:

FOR THE EVERGREEN STATE COLLEGE

Lab II 3rd Floor - Chemistry Labs Remodel (04-2-007)

Appropriation:

The Evergreen State College Capital Projects

Account—State	(\$3,000,000)
	<u>\$1,400,000</u>
<u>Gardner-Evans Higher Education Construction</u>	
Account—State	\$1,600,000
<u>Subtotal Appropriation</u>	<u>\$3,000,000</u>

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 252. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE SPOKANE INTERCOLLEGIATE RESEARCH AND TECHNOLOGY INSTITUTE (SIRTI)

Emergency Repairs (05-1-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to make concrete repairs and to repair or replace affected floor coverings.

Appropriation:

Gardner-Evans Higher Education Construction

Account—State	\$337,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$337,000

NEW SECTION. Sec. 253. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR WESTERN WASHINGTON UNIVERSITY

Bond Hall Renovation/Asbestos Abatement (04-1-080)

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State	\$4,900,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,900,000

Sec. 254. 2003 1st sp.s. c 26 s 702 (uncodified) is amended to read as follows:

FOR WESTERN WASHINGTON UNIVERSITY

Communications Facility (98-2-053)

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section shall not be used for vehicles, laptop computers, small printers, disposable items, or other items with a useful life of less than one year.

Reappropriation:

State Building Construction Account—State	(\$22,500,000)
	<u>\$13,888,908</u>

Appropriation:

Western Washington University Capital Projects Account—	
State	\$3,920,000
Prior Biennia (Expenditures)	(\$13,973,400)
	<u>\$18,584,492</u>
Future Biennia (Projected Costs)	\$0
TOTAL	(\$40,393,400)
	<u>\$36,393,400</u>

NEW SECTION. Sec. 255. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY

Cheney Cowles Museum: Addition and Remodel (98-2-001)

Appropriation:

State Building Construction Account—State	\$3,200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,200,000

NEW SECTION. Sec. 256. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Cascadia Community College/University of Washington Bothell Phase 2B Off Ramp (02-2-999)

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State.	\$1,750,000
Prior Biennia (Expenditures)	\$110,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,860,000

Sec. 257. 2003 1st sp.s. c 26 s 784 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Peninsula College: Replacement Science and Technology Building (04-1-208)

The appropriation in this section is subject to the following conditions and limitations:

(1) The purpose of this appropriation is to conduct a predesign study of alternatives and design for a potential replacement of existing science lab facilities.

(2) The predesign shall be consistent with the college's adopted strategic and master plans and additionally address projected enrollment demands, operating budget impacts, reuse or disposition of existing facilities, and options for reduction of parking needs.

(3) Prior to allotment for design, the state board for community and technical colleges shall submit a predesign document to the office of financial management and legislative fiscal committees identifying and outlining the project or projects, scope, schedule, and preliminary cost estimates for the project.

Appropriation:

Community and Technical College Capital Projects	
Account—State.	\$82,800
<u>Gardner-Evans Higher Education Construction</u>	
<u>Account—State.</u>	<u>\$1,134,000</u>
<u>Subtotal Appropriation</u>	<u>\$1,216,800</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	(\$10,752,500)
	<u>\$9,618,500</u>
TOTAL	\$10,835,300

Sec. 258. 2003 1st sp.s. c 26 s 786 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bellingham Technical College: Welding/Auto Collision Replacement (04-1-213)

Appropriation:

State Building Construction Account—State	\$2,481,000
<u>Gardner-Evans Higher Education Construction</u>	
<u>Account—State.</u>	<u>\$14,357,000</u>
<u>Subtotal Appropriation</u>	<u>\$16,838,000</u>

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	(\$14,357,000)
	<u>\$0</u>
TOTAL	\$16,838,000

Sec. 259. 2003 1st sp.s. c 26 s 798 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Everett Community College: (~~Renovation~~) Replacement - Monte Cristo Hall (04-1-305)

Appropriation:

State Building Construction Account—State	\$7,352,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,352,000

Sec. 260. 2003 1st sp.s. c 26 s 801 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Grays Harbor College: Replacement - Instructional Building (04-1-204)

Appropriation:

State Building Construction Account—State	\$1,263,300
<u>Gardner-Evans Higher Education Construction</u>	
<u>Account—State</u>	<u>\$19,471,749</u>
<u>Subtotal Appropriation</u>	<u>\$20,735,049</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	(\$16,371,700)
	<u>\$0</u>
TOTAL	(\$17,635,000)
	<u>\$20,735,049</u>

Sec. 261. 2003 1st sp.s. c 26 s 787 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Lower Columbia College: Instructional/Fine Arts Building Replacement (04-1-214)

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation is solely for the land acquisition for and design of a multiple use fine arts building.

(2) The state board for community and technical colleges shall submit major project reports to the office of financial management with copies to the legislative fiscal committees in accordance with the established procedures for major project reports.

Appropriation:

State Building Construction Account—State	\$1,827,799
<u>Gardner-Evans Higher Education Construction</u>	

Account—State.	\$2,500,000
<u>Subtotal Appropriation</u>	<u>\$4,327,799</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,645,515
TOTAL	(((\$18,473,314))
	<u>\$20,973,314</u>

NEW SECTION. Sec. 262. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Seattle: Training Facility (05-1-854)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is solely for the design of a single shop and classroom training facility to replace eight wood frame structures.

(2) Prior to allotment for design, the state board for community and technical colleges shall submit a predesign document to the office of financial management and legislative fiscal committees identifying and outlining the project or projects, scope, schedule, and preliminary cost estimates for capital projects related to the replacement of the portables.

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State.	\$722,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$7,342,480
TOTAL	\$8,064,480

NEW SECTION. Sec. 263. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Spokane Falls: Business and Social Science Building (05-1-853)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is solely for the design of a two-story building housing social science and business divisions to replace buildings 3, 4, and 14 which are not cost effective to renovate.

(2) Prior to allotment for design, the state board for community and technical colleges shall submit a predesign document to the office of financial management and legislative fiscal committees identifying and outlining the project or projects, scope, schedule, and preliminary cost estimates for capital projects related to the replacement of the existing buildings.

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State.	\$1,800,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$19,781,000

TOTAL \$21,581,000

NEW SECTION. Sec. 264. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Columbia Basin College: Health Sciences Center (05-2-851)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to establish the nursing program portion of this project on the Richland campus of Columbia Basin College. The appropriation is contingent upon receipt of nonstate matching funds of \$2,000,000 by June 30, 2004, and submittal and approval of a predesign document to the office of financial management and legislative fiscal committees identifying and outlining the project, scope, schedule, and preliminary cost estimates for the project.

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$4,000,000
TOTAL	\$6,000,000

NEW SECTION. Sec. 265. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Wenatchee Valley College: Anderson Hall and Portable Replacement (05-1-852)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is solely for the design of a building to house allied health programs, replacing Anderson hall, and consolidating programs and staff from other locations. The appropriation does not include the design, renovation, or demolition of related space to be vacated.

(2) Prior to allotment for design, the state board for community and technical colleges shall submit a predesign document to the office of financial management and legislative fiscal committees identifying and outlining the project or projects, scope, schedule, and preliminary cost estimates for capital projects related to the replacement of Anderson hall.

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State	\$1,618,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$25,249,855
TOTAL	\$26,867,855

NEW SECTION. Sec. 266. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Employability Colocation Study (05-4-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the state board for community and technical colleges to conduct a study, with input from an advisory committee, on the feasibility and benefits of establishing a one-stop satellite office colocating the employment security department and the department of social and health services on community college campuses. Essential elements of the study include a strategic evaluation of services to be collocated, the appropriate location on campuses, and how to better integrate employment security department and department of social and health services programs with basic skills, workforce, and academic programs of community and technical colleges to provide more opportunities for skill improvements and employability. The advisory committee shall include representation of the state board for community and technical colleges, the employment security department, and the department of social and health services. The study shall be at North Seattle community college. The board shall provide its findings and recommendations to the governor and appropriate committees of the legislature by December 20, 2004.

Appropriation:

Community and Technical College Capital Projects	
Account—State.	\$50,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$0
TOTAL.	\$50,000

NEW SECTION. Sec. 267. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR THE EMPLOYMENT SECURITY DEPARTMENT

Employment Resource Center (05-2-001)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is to purchase and install state of the art equipment for a 40,000 square foot facility supporting work force development programs using funds available to the state in section 903(d) of the social security act (Reed act).

Appropriation:

Unemployment Compensation Administration	
Account—Federal.	\$6,000,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$0
TOTAL.	\$6,000,000

**PART 3
OTHER ADJUSTMENTS/CLARIFICATIONS**

Sec. 301. 2003 1st sp.s. c 26 s 601 (uncodified) is amended to read as follows:

FOR THE STATE BOARD OF EDUCATION

Common School Construction Account Deposits

The appropriations in this section are subject to the following conditions and limitations:

(1) (~~(\$13,500,000)~~) \$27,000,000 in fiscal year 2004 and \$13,500,000 in fiscal year 2005 of the education savings account appropriation shall be deposited in the common school construction account.

(2) \$67,415,000 of the education construction account appropriation shall be deposited in the common school construction account.

Appropriation:

Education Savings Account—State	(\$27,000,000)
	<u>\$40,500,000</u>
Education Construction Account—State	\$67,415,000
Subtotal Appropriation	(\$94,415,000)
	<u>\$107,915,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	(\$94,415,000)
	<u>\$107,915,000</u>

Sec. 302. 2003 1st sp.s. c 26 s 603 (uncodified) is amended to read as follows:

FOR THE STATE BOARD OF EDUCATION

State Bonds for Common School Construction (04-4-950)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for deposit in the common school construction account.

Appropriation:

State Building (and) Construction	
Account—State	(\$118,050,000)
	<u>\$107,050,000</u>

Sec. 303. 2003 1st sp.s. c 26 s 629 (uncodified) is amended to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

Preventive Facility Maintenance and Building System Repairs (04-1-950)

The appropriation in this section is subject to the following conditions and limitations:

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems and campus infrastructure. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems and campus infrastructure must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation and that provided in section 630 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 915 of this act does not apply to this appropriation.

(4) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Appropriation:

Education Construction Account—State.....	\$20,108,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$20,108,000

Sec. 304. 2003 1st sp.s. c 26 s 650 (uncodified) is amended to read as follows:

FOR WASHINGTON STATE UNIVERSITY

Preventive Facility Maintenance and Building System Repairs (04-1-950)

The appropriation in this section is subject to the following conditions and limitations:

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems and campus infrastructure. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems and campus infrastructure must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation and that provided in section 651 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 915 of this act does not apply to this appropriation.

(4) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Appropriation:

Education Construction Account—State.....	\$7,876,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$7,876,000

Sec. 305. 2003 1st sp.s. c 26 s 672 (uncodified) is amended to read as follows:

FOR EASTERN WASHINGTON UNIVERSITY

Preventive Facility Maintenance and Building System Repairs (04-1-950)

The appropriation in this section is subject to the following conditions and limitations:

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems and campus infrastructure. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems and campus infrastructure must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation and that provided in section 673 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 915 of this act does not apply to this appropriation.

(4) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Appropriation:

Education Construction Account—State	\$1,726,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,726,000

Sec. 306. 2003 1st sp.s. c 26 s 685 (uncodified) is amended to read as follows:

FOR CENTRAL WASHINGTON UNIVERSITY

Preventive Facility Maintenance and Building System Repairs (04-1-950)

The appropriation in this section is subject to the following conditions and limitations:

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems and campus infrastructure. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems and campus infrastructure must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation and that provided in section 686 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project

funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 915 of this act does not apply to this appropriation.

(4) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Appropriation:

Education Construction Account—State.....	\$1,886,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$1,886,000

Sec. 307. 2003 1st sp.s. c 26 s 697 (uncodified) is amended to read as follows:

FOR THE EVERGREEN STATE COLLEGE

Preventive Facility Maintenance and Building System Repairs (04-1-950)

The appropriation in this section is subject to the following conditions and limitations:

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems and campus infrastructure. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems and campus infrastructure must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation and that provided in section 698 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 915 of this act does not apply to this appropriation.

(4) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Appropriation:

The Evergreen State College Capital Projects	
Account—State.....	\$150,000
Education Construction Account—State.....	\$584,000
Subtotal Appropriation.....	\$734,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$734,000

Sec. 308. 2003 1st sp.s. c 26 s 708 (uncodified) is amended to read as follows:

FOR WESTERN WASHINGTON UNIVERSITY

Preventive Facility Maintenance and Building System Repairs (04-1-951)

The appropriation in this section is subject to the following conditions and limitations:

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems and campus infrastructure. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems and campus infrastructure must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation and that provided in section 709 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 915 of this act does not apply to this appropriation.

(4) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Appropriation:

Education Construction Account—State	\$2,814,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,814,000

Sec. 309. 2003 1st sp.s. c 26 s 799 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Preventive Facility Maintenance and Building System Repairs (04-1-950)

The appropriation in this section is subject to the following conditions and limitations:

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems and campus infrastructure. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems and campus infrastructure must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation and that provided in section 800 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project

funds shall be allocated at the state board's discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 915 of this act does not apply to this appropriation.

(4) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Appropriation:

Education Construction Account—State.....	\$17,754,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$17,754,000

NEW SECTION. Sec. 310. A new section is added to 2003 1st sp.s. c 26 (uncodified) to read as follows:

FOR WASHINGTON STATE UNIVERSITY

Agricultural Research Facility Renovation and Repair (05-2-952)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is provided solely for facility construction, renovation, and repair at agricultural research facilities other than in Pullman.

(2) Washington State University shall retain ownership of 22 acres of the lower pasture area south of the WSU Puyallup research campus and continue its existing use for agricultural research.

Appropriation:

Gardner-Evans Higher Education Construction Account—State.....	\$500,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$500,000

**PART 4
MISCELLANEOUS**

NEW SECTION. Sec. 901. A new section is added to chapter 89.08 RCW to read as follows:

(1) The conservation assistance revolving account is created in the custody of the state treasurer. The account shall be administered by the conservation commission. Moneys from the account may only be spent after appropriation. Moneys placed in the account shall include principal and interest from the repayment of any loans granted under this section, and any other moneys appropriated to the account by the legislature. Expenditures from the account may be used to make loans to landowners for projects enrolled in the conservation reserve enhancement program.

(2) In order to aid the financing of conservation reserve enhancement program projects, the conservation commission, through the conservation districts, may make interest-free loans to conservation reserve enhancement

program enrollees from the conservation assistance revolving account. The conservation commission may require such terms and conditions as it deems necessary to carry out the purposes of this section. Loans to landowners shall be for costs associated with the installation of conservation improvements eligible for and secured by federal farm service agency practice incentive payment reimbursement. Loans under this program promote critical habitat protection and restoration by bridging the financing gap between project implementation and federal funding. The conservation commission shall give loan preferences to those projects expected to generate the greatest environmental benefits and that occur in basins with critical or depressed salmonid stocks. Money received from landowners in loan repayments made under this section shall be paid into the conservation assistance revolving account for uses consistent with this section.

Sec. 902. 2003 1st sp.s. c 26 s 902 (uncodified) is amended to read as follows:

(1) Allotments for appropriations in this act shall be provided in accordance with the capital project review requirements adopted by the office of financial management. The office of financial management shall notify the house of representatives capital budget committee and the senate ways and means committee of allotment releases based on review by the office of financial management. No expenditure may be incurred or obligation entered into for appropriations in this act until the office of financial management has given final approval to the allotment of the funds to be expended or encumbered. For allotments under this act, the allotment process includes, in addition to the statement of proposed expenditures for the current biennium, a category or categories for any reserve amounts and amounts expected to be expended in future biennia. Projects that will be employing alternative public works construction procedures under chapter 39.10 RCW are subject to the allotment procedures defined in this section and RCW 43.88.110. Contracts shall not be executed that call for expenditures in excess of the approved allotment, and the total amount shown in such contracts for the cost of future work that has not been appropriated shall not exceed the amount identified for such work in the level of funding approved by the office of financial management at the completion of predesign.

(2) The legislature intends that each project be defined as proposed to the legislature in the governor's budget document, unless it clearly appears from the legislative history that the legislature intended to define the scope of a project in a different way.

Sec. 903. 2003 1st sp.s. c 26 s 905 (uncodified) is amended to read as follows:

(1) To ensure that minor works appropriations are carried out in accordance with legislative intent, funds appropriated in this act shall not be allotted until project lists are on file at the office of financial management and the office of financial management has formally approved the lists. Proposed revisions to the lists must be filed with and approved by the office of financial management before funds may be expended on the revisions.

(2)(a) Minor works projects are single line appropriations that include multiple projects valued between \$25,000 and \$1 million each that are of a

similar nature and can generally be completed within two years of the appropriation with the funding provided. Minor works categories include (i) health, safety, and code requirements; (ii) facility preservation; (iii) infrastructure preservation; and (iv) program improvement or expansion. Improvements for accessibility in compliance with the Americans with disabilities act may be included in any of the above minor works categories.

(b) Minor works appropriations shall not be used for, among other things: Studies, except for technical or engineering reviews or designs that lead directly to and support a project on the same minor works list; planning; design outside the scope of work on a minor works list; moveable, temporary, and traditionally funded operating equipment not in compliance with the equipment criteria established by the office of financial management; software not dedicated to control of a specialized system; moving expenses; land or facility acquisition; or to supplement funding for projects with funding shortfalls unless expressly authorized elsewhere in this act. The office of financial management may make an exception to the limitations described in this subsection (2)(b) for exigent circumstances after notifying the legislative fiscal committees and waiting ten days for comments by the legislature regarding the proposed exception.

(3) The office of financial management shall forward copies of these project lists and revised lists to the house of representatives capital budget committee and the senate ways and means committee. No expenditure may be incurred or obligation entered into for minor works appropriations until the office of financial management has approved the allotment of the funds to be expended. The office of financial management shall encourage state agencies to incorporate accessibility planning and improvements into the normal and customary capital program.

(4) The legislature generally does not intend to make future appropriations for capital expenditures or for maintenance and operating expenses for an acquisition project or a significant expansion project that is initiated through the minor works process and therefore does not receive a policy and fiscal analysis by the legislature. Minor works projects are intended to be one-time expenditures that do not require future state resources to complete.

Sec. 904. 2003 1st sp.s. c 26 s 907 (uncodified) is amended to read as follows:

ACQUISITION OF PROPERTIES AND FACILITIES THROUGH FINANCIAL CONTRACTS. The following agencies may enter into financial contracts, paid from any funds of an agency, appropriated or nonappropriated, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. When securing properties under this section, agencies shall use the most economical financial contract option available, including long-term leases, lease-purchase agreements, lease-development with option to purchase agreements or financial contracts using certificates of participation. Expenditures made by an agency for one of the indicated purposes before the issue date of the authorized financial contract and any certificates of participation therein are intended to be reimbursed from proceeds of the financial contract and any certificates of participation therein to the extent provided in the agency's financing plan approved by the state finance committee.

State agencies may enter into agreements with the department of general administration and the state treasurer's office to develop requests to the legislature for acquisition of properties and facilities through financial contracts. The agreements may include charges for services rendered.

(1) Department of general administration: Enter into a financing contract for an amount approved by the office of financial management for costs and financing expenses and required reserves pursuant to chapter 39.94 RCW to lease develop or lease purchase a state office building of 150,000 to 200,000 square feet on state-owned property in Tumwater according to the terms of the agreement with the Port of Olympia when the property was acquired or within the preferred development/leasing areas in Thurston county. The building shall be constructed and financed so that agency occupancy costs will not exceed comparable private market rental rates. The comparable general office space rate shall be calculated based on the three latest Thurston county leases of new space of at least 100,000 rentable square feet adjusted for inflation as determined by the department of general administration. The department of general administration shall coordinate with potential state agency tenants whose current lease expire near the time of occupancy so that buyout of current leases do not add to state expense. The office of financial management shall certify to the state treasurer: (a) The project description and dollar amount; and (b) that all requirements of this subsection (1) have been met.

(2) Enter into, after approval by the office of financial management and the state finance committee and a positive result from the joint legislative audit and review committee leasing model, a long-term lease of up to twenty-five years, or long-term lease with an option to purchase, with the city of Seattle, for up to 250,000 square feet of office space that is being lease developed by the city of Seattle. Agency occupancy costs will not exceed comparable private market rental rates in downtown Seattle. The comparable general office space rate shall be calculated based on lease rates (adjusted for inflation) of the tenants at the time of proposed occupancy as determined by the department of general administration.

(3) Department of veterans affairs: Enter into a financing contract in an amount not to exceed \$1,441,500 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to build and equip a kitchen in existing shell space at the Spokane veterans home and provide space for displaced functions.

~~((3))~~ (4) Department of corrections:

(a) Enter into a financing contract for up to \$400,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a waste transfer station and purchase a garbage truck at the McNeil Island corrections center.

(b) Enter into a financing contract for up to \$4,588,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a transportation services warehouse and offices for correctional industries.

(c) Enter into a financing contract for up to \$4,536,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct additions to the food factory and warehouses at the Airway Heights corrections center for correctional industries.

(5) Parks and recreation commission: Enter into a financing contract in an amount not to exceed \$4,800,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop Cama Beach state park.

~~((4))~~ (6) Community and technical colleges:

(a) Enter into a financing contract on behalf of Bellevue Community College for up to \$20,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase North Center campus.

(b) Enter into a financing contract on behalf of Big Bend Community College for up to \$6,500,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct an international conference and training center and dining services center building.

(c) Enter into a financing contract on behalf of Clark Community College for up to \$9,839,464 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a bookstore, meeting rooms, student lounge, and study space.

(d) Enter into a financing contract on behalf of Green River Community College for up to \$7,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase Kent Station higher education center.

(e) Enter into a financing contract on behalf of Seattle Central Community College for up to \$1,300,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for land acquisition and development of parking facilities.

(f) Enter into a financing contract on behalf of Seattle Central Community College for up to \$3,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct an above-ground parking garage.

~~((f))~~ (g) Enter into a financing contract on behalf of South Puget Sound Community College for up to \$660,000 plus financing expenses and reserves pursuant to chapter 39.94 RCW to construct parking and stormwater mitigation facilities.

(h) Enter into a financing contract on behalf of Spokane Community College for up to \$725,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase land.

(i) Enter into a financing contract on behalf of Walla Walla Community College for up to \$2,175,100 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase land and construct a building for professional-technical instruction.

(j) Enter into a financing contract on behalf of Walla Walla Community College for up to \$504,400 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase land and buildings at the Clarkston center.

(k) Enter into a financing contract on behalf of Pierce College/Ft. Steilacoom for up to \$5,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct an addition to the college health and wellness center.

(l) Enter into a financing contract on behalf of Pierce College/Puyallup for up to \$8,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a student gym and fitness center.

(m) Enter into a financing contract on behalf of Columbia Basin College for up to \$8,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct the medical technology and science education addition to the T-Building renovation and establish the Washington institute of science education (WISE).

NEW SECTION. Sec. 905. (1) The department of natural resources shall conduct an inventory on state lands of old growth forest stands as defined by a panel of scientists. The panel of scientists shall include three scientific scholars with well documented expertise in Pacific Northwest forest ecology, one of whom will serve as chair by consensus of the panel, one representative from the department of natural resources, and one representative from the Washington department of fish and wildlife. The panel shall review the best available scientific information and develop a definition for old growth forest stands in Washington state. The inventory shall include maps illustrating the distribution of old growth forest stands on state lands, and tables describing the number of acres of such stands in each county, the department's administrative unit, and forest type. The maps and tables shall identify both structurally uniform and structurally complex stands. The department of natural resources shall make a report of the inventory to the appropriate committees of the legislature.

(2) For the duration of the study, cutting or removal of the trees and stands 160 years or older is subject to the department publishing notification of proposed cutting or removal of old growth timber.

(3) This section expires June 30, 2005.

Sec. 906. RCW 43.82.010 and 1997 c 117 s 1 are each amended to read as follows:

(1) The director of general administration, on behalf of the agency involved, shall purchase, lease, lease purchase, rent, or otherwise acquire all real estate, improved or unimproved, as may be required by elected state officials, institutions, departments, commissions, boards, and other state agencies, or federal agencies where joint state and federal activities are undertaken and may grant easements and transfer, exchange, sell, lease, or sublease all or part of any surplus real estate for those state agencies which do not otherwise have the specific authority to dispose of real estate. This section does not transfer financial liability for the acquired property to the department of general administration.

(2) Except for real estate occupied by federal agencies, the director shall determine the location, size, and design of any real estate or improvements thereon acquired or held pursuant to subsection (1) of this section. Facilities acquired or held pursuant to this chapter, and any improvements thereon, shall conform to standards adopted by the director and approved by the office of financial management governing facility efficiency unless a specific exemption from such standards is provided by the director of general administration. The director of general administration shall report to the office of financial management annually on any exemptions granted pursuant to this subsection.

(3) The director of general administration may fix the terms and conditions of each lease entered into under this chapter, except that no lease shall extend greater than twenty years in duration. The director of general administration may enter into a long-term lease greater than ten years in duration upon a

determination by the director of the office of financial management that the long-term lease provides a more favorable rate than would otherwise be available, it appears to a substantial certainty that the facility is necessary for use by the state for the full length of the lease term, and the facility meets the standards adopted pursuant to subsection (2) of this section. The director of general administration may enter into a long-term lease greater than ten years in duration if an analysis shows that the life-cycle cost of leasing the facility is less than the life-cycle cost of purchasing or constructing a facility in lieu of leasing the facility. For the 2003-05 biennium, any lease entered into after the effective date of this section with a term of ten years or less shall not contain a nonappropriation clause.

(4) Except as permitted under chapter 39.94 RCW, no lease for or on behalf of any state agency may be used or referred to as collateral or security for the payment of securities offered for sale through a public offering. Except as permitted under chapter 39.94 RCW, no lease for or on behalf of any state agency may be used or referred to as collateral or security for the payment of securities offered for sale through a private placement without the prior written approval of the state treasurer. However, this limitation shall not prevent a lessor from assigning or encumbering its interest in a lease as security for the repayment of a promissory note provided that the transaction would otherwise be an exempt transaction under RCW 21.20.320. The state treasurer shall adopt rules that establish the criteria under which any such approval may be granted. In establishing such criteria the state treasurer shall give primary consideration to the protection of the state's credit rating and the integrity of the state's debt management program. If it appears to the state treasurer that any lease has been used or referred to in violation of this subsection or rules adopted under this subsection, then he or she may recommend that the governor cause such lease to be terminated. The department of general administration shall promptly notify the state treasurer whenever it may appear to the department that any lease has been used or referred to in violation of this subsection or rules adopted under this subsection.

(5) It is the policy of the state to encourage the colocation and consolidation of state services into single or adjacent facilities, whenever appropriate, to improve public service delivery, minimize duplication of facilities, increase efficiency of operations, and promote sound growth management planning.

(6) The director of general administration shall provide coordinated long-range planning services to identify and evaluate opportunities for colocating and consolidating state facilities. Upon the renewal of any lease, the inception of a new lease, or the purchase of a facility, the director of general administration shall determine whether an opportunity exists for colocating the agency or agencies in a single facility with other agencies located in the same geographic area. If a colocation opportunity exists, the director of general administration shall consult with the affected state agencies and the office of financial management to evaluate the impact colocation would have on the cost and delivery of agency programs, including whether program delivery would be enhanced due to the centralization of services. The director of general administration, in consultation with the office of financial management, shall develop procedures for implementing colocation and consolidation of state facilities.

(7) The director of general administration is authorized to purchase, lease, rent, or otherwise acquire improved or unimproved real estate as owner or lessee and to lease or sublet all or a part of such real estate to state or federal agencies. The director of general administration shall charge each using agency its proportionate rental which shall include an amount sufficient to pay all costs, including, but not limited to, those for utilities, janitorial and accounting services, and sufficient to provide for contingencies; which shall not exceed five percent of the average annual rental, to meet unforeseen expenses incident to management of the real estate.

(8) If the director of general administration determines that it is necessary or advisable to undertake any work, construction, alteration, repair, or improvement on any real estate acquired pursuant to subsection (1) or (7) of this section, the director shall cause plans and specifications thereof and an estimate of the cost of such work to be made and filed in his or her office and the state agency benefiting thereby is hereby authorized to pay for such work out of any available funds: PROVIDED, That the cost of executing such work shall not exceed the sum of twenty-five thousand dollars. Work, construction, alteration, repair, or improvement in excess of twenty-five thousand dollars, other than that done by the owner of the property if other than the state, shall be performed in accordance with the public works law of this state.

(9) In order to obtain maximum utilization of space, the director of general administration shall make space utilization studies, and shall establish standards for use of space by state agencies. Such studies shall include the identification of opportunities for colocation and consolidation of state agency office and support facilities.

(10) The director of general administration may construct new buildings on, or improve existing facilities, and furnish and equip, all real estate under his or her management. Prior to the construction of new buildings or major improvements to existing facilities or acquisition of facilities using a lease purchase contract, the director of general administration shall conduct an evaluation of the facility design and budget using life-cycle cost analysis, value-engineering, and other techniques to maximize the long-term effectiveness and efficiency of the facility or improvement.

(11) All conveyances and contracts to purchase, lease, rent, transfer, exchange, or sell real estate and to grant and accept easements shall be approved as to form by the attorney general, signed by the director of general administration or the director's designee, and recorded with the county auditor of the county in which the property is located.

(12) The director of general administration may delegate any or all of the functions specified in this section to any agency upon such terms and conditions as the director deems advisable.

(13) This section does not apply to the acquisition of real estate by:

- (a) The state college and universities for research or experimental purposes;
- (b) The state liquor control board for liquor stores and warehouses; and
- (c) The department of natural resources, the department of fish and wildlife, the department of transportation, and the state parks and recreation commission for purposes other than the leasing of offices, warehouses, and real estate for similar purposes.

(14) Notwithstanding any provision in this chapter to the contrary, the department of general administration may negotiate ground leases for public lands on which property is to be acquired under a financing contract pursuant to chapter 39.94 RCW under terms approved by the state finance committee.

NEW SECTION. Sec. 907. (1)(a) The legislature acknowledges the recommendation of the house of representatives capital budget committee 2002 interim workgroup on higher education facilities regarding encouragement of partnerships that attract federal and private funding for certain types of capital facilities, particularly research facilities and facilities providing unique or targeted skills. One incentive to attracting nonstate funding of facilities might be the state sharing in the ongoing operating and maintenance costs through the operating budget and sharing future capital maintenance costs. The workgroup recommended that a process be developed to enable an institution to request such assistance up-front at the time the facility being funded with nonstate resources is planned, rather than after the facility is built. While the legislature will not commit in a present budget to providing operating and maintenance or capital maintenance funding in the future, the institution is less likely to receive this assistance when the facility is constructed if the assistance was not requested up-front when the facility was being planned. Until a more formal process is identified, the legislature will acknowledge such a request in a budget proviso or in the legislative budget notes. This section does not apply to facilities that traditionally do not receive any state budget support, such as student dining, recreation, and housing facilities.

(b) While the legislature assumes facilities funded using alternative financing contracts approved in the capital budget will not be receiving state budget support, exceptions to this should be requested of the governor and legislature up-front, as provided for in this section for nonstate funded facilities.

(2)(a) The following project, funded primarily by nonstate budget sources, is expected to be included in the institution's operating budget request once the facility is completed: Washington State University's agricultural research facility, constructed using federal funds.

(b) The legislature is not committing to providing funds for operating and maintenance or capital maintenance on the facility described in (a) of this subsection at this time, but will consider that decision when the project nears completion. Considerations will include the appropriate amount of such assistance, particularly given the research nature of the facility and the potential for indirect cost recovery associated with the research grants coming to the institution as a result of the facility.

Sec. 908. 2003 1st sp.s. c 26 s 915 (uncodified) is amended to read as follows:

(1) The governor, through the office of financial management, may authorize a transfer of appropriation authority provided for a capital project that is in excess of the amount required for the completion of such project to another capital project for which the appropriation is insufficient. No such transfer may be used to expand the capacity of any facility beyond that intended by the legislature in making the appropriation. Such transfers may be effected only between capital appropriations to a specific department, commission, agency, or institution of higher education and only between capital projects that are funded

from the same fund or account. No transfers may occur between projects to local government agencies except where the grants are provided within a single omnibus appropriation and where such transfers are specifically authorized by the implementing statutes that govern the grants.

(2) For purposes of this section, the governor may find that an amount is in excess of the amount required for the completion of a project only if: (a) The project as defined in the notes to the budget document is substantially complete and there are funds remaining; or (b) bids have been let on a project and it appears to a substantial certainty that the project as defined in the notes to the budget document can be completed within the biennium for less than the amount appropriated in this act.

(3) For the purposes of this section, the legislature intends that each project be defined as proposed to the legislature in the governor's budget document, unless it clearly appears from the legislative history that the legislature intended to define the scope of a project in a different way.

(4) Transfers of funds to an agency's infrastructure savings appropriation are subject to review and approval by the office of financial management. Expenditures from an infrastructure savings appropriation are limited to projects that have a primary purpose to correct infrastructure deficiencies or conditions that: (a) Adversely affect the ability to utilize the infrastructure for its current programmatic use; (b) reduce the life expectancy of the infrastructure; or (c) increase the operating costs of the infrastructure for its current programmatic use. Eligible infrastructure projects may include structures and surface improvements, site amenities, utility systems outside building footprints and natural environmental changes or requirements as part of an environmental regulation, a declaration of emergency for an infrastructure issue in conformance with RCW 43.88.250, or infrastructure planning as part of a facility master plan.

(5) A report of any transfer effected under this section, except emergency projects or any transfer under \$250,000, shall be filed with the legislative fiscal committees of the senate and house of representatives by the office of financial management at least thirty days before the date the transfer is effected. The office of financial management shall report all emergency or smaller transfers within thirty days from the date of transfer.

(6) This section does not apply to sections 506 through 508, chapter 26, Laws of 2003 1st sp. sess.

Sec. 909. RCW 70.146.030 and 2003 1st sp.s. c 25 s 934 are each amended to read as follows:

(1) The water quality account is hereby created in the state treasury. Moneys in the account may be used only in a manner consistent with this chapter. Moneys deposited in the account shall be administered by the department of ecology and shall be subject to legislative appropriation. Moneys placed in the account shall include tax receipts as provided in RCW 82.24.027, 82.26.025, and 82.32.390, principal and interest from the repayment of any loans granted pursuant to this chapter, and any other moneys appropriated to the account by the legislature.

(2) The department may use or permit the use of any moneys in the account to make grants or loans to public bodies, including grants to public bodies as cost-sharing moneys in any case where federal, local, or other funds are made available on a cost-sharing basis, for water pollution control facilities and

activities, or for purposes of assisting a public body to obtain an ownership interest in water pollution control facilities and/or to defray a part of the payments made by a public body to a service provider under a service agreement entered into pursuant to RCW 70.150.060, within the purposes of this chapter and for related administrative expenses. For the period July 1, 2003, to June 30, 2005, moneys in the account may be used to process applications received by the department that seek to make changes to or transfer existing water rights, for water conveyance projects, and for grants and technical assistance to public bodies for watershed planning under chapter 90.82 RCW. No more than three percent of the moneys deposited in the account may be used by the department to pay for the administration of the grant and loan program authorized by this chapter.

(3) Beginning with the biennium ending June 30, 1997, the department shall present a biennial progress report on the use of moneys from the account to the chairs of the senate committee on ways and means and the house of representatives committee on appropriations. The first report is due June 30, 1996, and the report for each succeeding biennium is due December 31 of the odd-numbered year. The report shall consist of a list of each recipient, project description, and amount of the grant, loan, or both.

Sec. 910. RCW 28B.50.360 and 2002 c 238 s 303 are each amended to read as follows:

Within thirty-five days from the date of start of each quarter all collected building fees of each such community and technical college shall be paid into the state treasury, and shall be credited as follows:

(1) On or before June 30th of each year the college board if issuing bonds payable out of building fees shall certify to the state treasurer the amounts required in the ensuing twelve-month period to pay and secure the payment of the principal of and interest on such bonds. The state treasurer shall thereupon deposit the amounts so certified in the community and technical college capital projects account. Such amounts of the funds deposited in the community and technical college capital projects account as are necessary to pay and secure the payment of the principal of and interest on the building bonds issued by the college board as authorized by this chapter shall be exclusively devoted to that purpose. If in any twelve-month period it shall appear that the amount certified by the college board is insufficient to pay and secure the payment of the principal of and interest on the outstanding building bonds, the state treasurer shall notify the college board and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal and interest on all such bonds then outstanding shall be fully met at all times.

(2) The community and technical college capital projects account is hereby created in the state treasury. The sums deposited in the capital projects account shall be appropriated and expended exclusively to pay and secure the payment of the principal of and interest on bonds payable out of the building fees and for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the state board for community and technical colleges in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto, and, during the 2003-05 biennium, engineering and architectural services provided by the department of general

administration, and for the payment of principal of and interest on any bonds issued for such purposes. ~~((During the 2001-2003 fiscal biennium, the legislature may transfer from the account to the state general fund such amounts as reflect the excess fund balance of the account.))~~

NEW SECTION. Sec. 911. During the 2003-05 biennium, the state parks and recreation commission shall study the various options regarding the future of Old Man House state park. These alternatives include retention as a state park, roles of volunteer community groups, transfer to the Suquamish tribe, sale as surplus property, or other alternatives. The commission may, if it deems it appropriate after studying the various options, transfer the park to the Suquamish tribe. Any action shall provide for continued public access and use of the site for public recreation, and include a limited waiver of sovereignty by the tribe restricted to the enforceability of the reversion clause pursuant to RCW 79A.05.170.

NEW SECTION. Sec. 912. A new section is added to chapter 39.33 RCW to read as follows:

(1) During the 2003-05 biennium, notwithstanding any other provision of law, the department of general administration is authorized to sell the property and attendant parking lot located at 1058 Capitol Way, Olympia, for fair market value to a nonprofit organization whose function is to produce television coverage of state government deliberations and other events of statewide significance.

(2) This section expires June 30, 2005.

NEW SECTION. Sec. 913. A new section is added to chapter 79.19 RCW to read as follows:

(1) All transaction costs associated with the exchange required under chapter . . . (House Bill No. 3045), Laws of 2004, shall be included in the valuation of the lands exchanged.

(2) Notwithstanding any other provision of law, the department of natural resources is authorized to use moneys derived from the sale of lands acquired by the common school trust through the exchange required under chapter . . . (House Bill No. 3045), Laws of 2004, to acquire commercial or industrial properties for the common school trust.

(3) If chapter . . . (House Bill No. 3045), Laws of 2004, is not enacted by April 15, 2004, this section expires April 16, 2004; if it is enacted by April 15, 2004, this section expires June 30, 2005.

NEW SECTION. Sec. 914. (1) The legislature finds that it is in the public interest to encourage development of a BioGas facility at the Monroe honor farm to convert dairy waste, fish processing waste, and other waste products into energy. Such a facility will: Help improve water quality in area streams; help restore salmon habitat; create jobs; generate green energy; improve the economic sustainability of area dairy farms; help stem sprawl; serve as a demonstration project for environmental education; reduce on-going costs associated with maintaining state ownership of this facility; encourage greater cooperation between area tribes and agricultural interests; and be a model for other such efforts in the state.

(2) In consideration of the multiple public benefits set forth in this section and notwithstanding any other provision of law, within one hundred twenty days

of the requirements of subsection (4) of this section being completed during the 2003-05 biennium, the state shall transfer the Monroe honor farm to a federally recognized tribe within Snohomish county for construction and operation of a BioGas facility, related agricultural-based businesses, and activities designed to promote salmon restoration and sustainability of area dairy farms. The secretary of corrections shall enter into an agreement with the department of general administration to work with the federally recognized tribe to draft appropriate deed restrictions or conservation easements for the property to ensure that the property is used for the legislative purposes set forth in this section.

(3) The department of general administration shall transfer the property only if the federally recognized tribe has completed a feasibility study for a BioGas facility at the site, only if the tribe has concluded that development of such a facility is feasible, only after the necessary development permits are approved, and only after a public hearing is conducted by the department of general administration. Further, if the property is not used for one or more of the purposes set forth in this section within two years from the date of transfer or if at any time the property is used for activities inconsistent with the legislative purposes set forth in this section, then the ownership of the property shall automatically revert to the state of Washington and be processed as surplus property. The tribe shall be liable or responsible for any environmental contamination occurring during the period the tribe owns the property.

(4) The legislature finds that the value of the public benefits set forth in this section exceeds the fair market value of Monroe honor farm. Accordingly, the state shall transfer the property to a federally recognized tribe within Snohomish county at no cost beyond the consideration set forth in this section. Nothing in this section shall be deemed to affect or modify liability or responsibility for any existing environmental contamination related to the Monroe honor farm.

NEW SECTION. Sec. 915. By October 1, 2004, the department of general administration shall report to the legislature the priority order of the state buildings the department would map subject to implementation of RCW 36.28A.060.

NEW SECTION. Sec. 916. (1) In order to enhance salmon recovery efforts funded in the 2003-05 biennium in eastern Washington, a management board for regional fish recovery is established for Asotin, Columbia, Garfield, Walla Walla, and Whitman counties. The board shall consist of representatives of local and regional interests, and the board shall invite state agencies and tribal governments with treaty fishing rights to participate as voting members on the board.

(2) The number of members, qualifications, terms, and responsibilities of the board shall be specified in an interlocal agreement under chapter 39.34 RCW or resolution of a local government.

(3) The board shall, at a minimum, have the following powers and duties:

(a) The board is responsible for the development and the adoption of a salmon and steelhead recovery plan.

(b) The habitat sections of the plan must be consistent with local watershed plans developed under chapter 90.82 RCW, the Northwest power and conservation council's subbasin plans, and be based on critical pathway methodology under RCW 77.85.060. The board may not exercise authority over

land or water within the individual counties or otherwise preempt the authority of other units of local government.

(c) The harvest and hatchery sections of the plan must be consistent with the policies developed jointly by the comanagers, the department, and treaty Indian tribes.

(d) The hydropower sections of the plan must be consistent with policies developed by the federal agencies that operate or market power from the federal Columbia and Snake river power system.

(e) The board has authority to: Hire and fire staff, including an executive director; enter into contracts; accept grants and other moneys; and disburse funds.

(f) The board shall appoint and consult with a technical advisory committee. The board shall invite at least four representatives from state government and the treaty Indian tribes to participate on the technical advisory committee. The board may appoint additional members to the technical advisory committee.

(4) No action may be brought or maintained against any board member, the board, or any of its agents, officers, or employees for any noncontractual acts or omissions in carrying out the purposes of this chapter.

(5) Nothing in this section shall be construed to affect or modify any treaty or other federal rights of an Indian tribe, nor as affecting or modifying any existing right of a federally recognized Indian tribe as determined under *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon 1969), and any applicable posttrial orders of those courts.

(6) This section expires June 30, 2005.

****NEW SECTION. Sec. 917. Washington State University shall retain ownership of 22 acres of the lower pasture area south of the WSU Puyallup research campus and continue its existing use for agricultural research.***

**Sec. 917 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 918. Part headings in this act are not any part of the law.

NEW SECTION. Sec. 919. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 920. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately, except for sections 117 and 202 of this act, which take effect April 16, 2004.

INDEX	PAGE #
CENTRAL WASHINGTON UNIVERSITY	1506, 1516
COMMUNITY AND TECHNICAL COLLEGE SYSTEM ..	1481, 1482, 1508 1518
COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT ..	1467, 1484 1486
CRIMINAL JUSTICE TRAINING CENTER	1490
DEPARTMENT OF CORRECTIONS	1472

DEPARTMENT OF NATURAL RESOURCES 1500
 EASTERN WASHINGTON STATE HISTORICAL SOCIETY 1508
 EASTERN WASHINGTON UNIVERSITY 1505, 1516
 ECOLOGY 1473, 1492
 EMPLOYMENT SECURITY DEPARTMENT 1513
 FISH AND WILDLIFE 1478, 1498
 GENERAL ADMINISTRATION 1470, 1489
 HEALTH 1472
 INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION 1476, 1496
 JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE 1467
 NATURAL RESOURCES 1479, 1501
 OFFICE OF FINANCIAL MANAGEMENT 1489
 SOCIAL AND HEALTH SERVICES 1471
 SPOKANE INTERCOLLEGIATE RESEARCH AND TECHNOLOGY
 INSTITUTE (SIRTI) 1507
 STATE BOARD OF EDUCATION 1480, 1502, 1514
 STATE CONSERVATION COMMISSION 1481, 1497
 STATE PARKS AND RECREATION COMMISSION 1475, 1481, 1495
 STATE SCHOOL FOR THE BLIND 1480
 THE EVERGREEN STATE COLLEGE 1507, 1517
 UNIVERSITY OF WASHINGTON 1503, 1514
 WASHINGTON STATE PATROL 1480
 WASHINGTON STATE UNIVERSITY 1504, 1515, 1519
 WESTERN WASHINGTON UNIVERSITY 1508, 1518

Passed by the House March 11, 2004.

Passed by the Senate March 11, 2004.

Approved by the Governor April 1, 2004, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 1, 2004.

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

"I am returning herewith, without my approval as to the following appropriation items and sections: 114(8); 117; 118; 122(5); 136; 137; 203; 216(2); 245; and 917, Engrossed Substitute House Bill No. 2573 entitled:

"AN ACT Relating to the capital budget;

Engrossed Substitute House Bill No. 2573 is the state supplemental capital budget for the 2003-2005 Biennium. I have vetoed several provisions as described below:

Section 114(8), Page 9, Department of Ecology

This subsection would have provided \$1 million from the Water Quality Account to assist the City of Enumclaw with upgrades to their wastewater treatment plant to address phosphorus loading in the White River. Although, I support funding assistance to upgrade wastewater treatment plants to address specific water quality problems, this project did not go through the competitive grant and loan process. Nor did the City of Enumclaw apply for "hardship" funding. A specific grant for this project would be unfair to other communities that applied for assistance and are waiting in line for hardship funding from the Water Quality Account. The City of Enumclaw may apply for additional assistance during the next competitive grant and loan funding cycle beginning in September 2004.

Section 117, Page 12, Department of Ecology

This section for water rights purchase and lease is tied to section 118 which states that if Engrossed Substitute House Bill No. 1317 is not enacted by April 15, 2004, section 117 is null and void. Since

Engrossed Substitute House Bill No. 1317 did not pass, I have vetoed this section to ensure that section 309, Chapter 26, Laws of 2003, First Special Session remains operative.

Section 118, Page 12, Department of Ecology

This section ties section 117 to Engrossed Substitute House Bill No. 1317 and states that if the bill is not enacted by April 15, 2004, section 117 is null and void. Since the bill did not pass, I am have vetoed this section to ensure that section 309, Chapter 26, Laws of 2003, First Special Session remains operative.

Section 122(5), Page 15, Interagency Committee for Outdoor Recreation

Subsection 122(5) would have required the Interagency Committee for Outdoor Recreation to develop or revise project evaluation criteria for the Washington Wildlife and Recreation Program based on the provisions of Engrossed Substitute House Bill No. 2275 or Second Substitute Senate Bill No 6082. Since neither bill passed, this subsection is unnecessary.

Section 136, Page 22, Community and Technical College System

This section would have placed overly restrictive conditions on the replacement of the North Plaza Building at Seattle Central Community College. Subsection 136(1) would have mandated construction limits that should, in part, be determined as part of the design phase of the project. Sections 136(2) and (3) would have required submission of major project reports and final budget reconciliation in excess of normal requirements, requirements that can be handled administratively. Although I have vetoed this section, I am directing the Office of Financial Management to consider this project a major capital project for purposes of review and oversight.

Section 137, Page 23, Community and Technical College System

This section would have placed overly restrictive conditions on the renovation of Building 7 at Tacoma Community College. Subsection 137(1) would have mandated construction limits that should, in part, be determined as part of the design phase of the project. Sections 137(2) and (3) would have required submission of major project reports and final budget reconciliation in excess of normal requirements, requirements that can be handled administratively. Although I have vetoed this section, I am directing the Office of Financial Management to consider this project a major capital project for the purposes of review and oversight.

Section 203, Page 27, Department of Community, Trade, and Economic Development

This section provided that if Second Substitute House Bill No. 1840 is not enacted by April 15, 2004, section 202 is null and void. Section 202 authorizes up to \$1,000,000 to help capitalize a self-insurance risk pool for non-profit corporations in Washington that develop housing units for the low-income. Since the bill did not pass, I have vetoed this section. However, I am retaining section 202 since the companion measure, Senate Bill No. 5869, did pass.

Section 216(2), Page 34, Department of Ecology

This subsection would have appropriated \$1.8 million of Local Toxics Control Account grants to Klickitat County for removal, disposal or recycling of vehicle tires. This effort is not an eligible project under the Local Toxics Control Account, Remedial Action Cleanup Program. To be eligible for such funding, a site must be under an agreed-upon order or consent decree, have completed a site assessment and cleanup plan, and be a declared toxic waste site.

Section 245, Page 51, Washington State University

The section would have appropriated \$3,400,000 for the start of a wastewater reclamation project at Washington State University and the City of Pullman. The proviso required a study that summarizes a strategy for completion of future phases of this project, identifies all funding sources, and identifies water conservation measures to be enacted. I originally recommended a proviso limiting the amount of state funding for this project until these serious questions have been answered; that proviso has been removed. It is inappropriate to commit funding without knowing the sources of future funding, phasing, costs, and conservation efforts. The university should explore and attempt to secure alternative funding that is consistent with a completed comprehensive project plan.

Section 917, Page 90, Washington State University

This section would have required Washington State University to retain ownership of 22 acres of the Puyallup research campus, and maintain its use for agricultural research. This section duplicates section 310(2) of the bill and is unnecessary.

In addition to vetoes above, I am directing the Department of General Administration to work with stakeholders to develop cancellation language for operating and capital leases. This language will provide the state flexibility to respond to funding changes that necessitate termination of leases. This will properly protect the Legislature and state agencies and is a complement section 906, which amends RCW 43.82.010, requiring all leases with a term of ten years or less not to contain a nonappropriation clause.

For these reasons, I have vetoed appropriation items and sections 114(8); 117; 118; 122(5); 136; 137; 203; 216(2); 245; and 917, of Engrossed Substitute House Bill No. 2573.

With the exception of appropriation items and sections 114(8); 117; 118; 122(5); 136; 137; 203; 216(2); 245; and 917, Engrossed Substitute House Bill No. 2573 is approved."

CHAPTER 278

[Engrossed House Bill 1777]

HOME CARE WORKERS—COLLECTIVE BARGAINING

AN ACT Relating to implementing the collective bargaining agreement between the home care quality authority and individual home care providers; creating a new section; making appropriations; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) The legislature finds that the voters of the state expressed their support for home-based long-term care services through their approval of Initiative Measure No. 775 in 2001. With passage of the initiative, the state has been directed to increase the quality of state-funded long-term care services provided to elderly and disabled persons in their own homes through recruitment and training of in-home individual providers, referral of qualified individual providers to seniors and persons with disabilities seeking a provider, and stabilization of the individual provider work force. The legislature further finds that the quality of care our elders and people with disabilities receive is highly dependent upon the quality and stability of the individual provider work force, and that the demand for the services of these providers will increase as our population ages.

(2) The legislature intends to stabilize the state-funded individual provider work force by providing funding to implement the collective bargaining agreement between the home care quality authority and the exclusive bargaining representative of individual providers. The agreement reflects the value and importance of the work done by individual providers to support the needs of elders and people with disabilities in Washington state.

NEW SECTION. Sec. 2. The sum of one hundred forty-five thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund—state for the fiscal year ending June 30, 2005, and the sum of one hundred forty-five thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund—federal for the biennium ending June 30, 2005, to the children and family services program of the department of social and health services. The appropriations in this section shall be used solely to implement the compensation-related provisions of the collective bargaining agreement between the home care quality authority and the exclusive bargaining representative of the individual providers of home care services. The appropriations in this section shall be reduced by any amounts appropriated by

the 2004 legislature for this purpose in separate legislation enacted prior to June 30, 2004.

NEW SECTION. Sec. 3. The sum of eight million ninety-six thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund—state for the fiscal year ending June 30, 2005, and the sum of seven million five hundred thirty-one thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund—federal for the biennium ending June 30, 2005, to the developmental disabilities program of the department of social and health services. The appropriations in this section shall be used solely to implement the compensation-related provisions of the collective bargaining agreement between the home care quality authority and the exclusive bargaining representative of the individual providers of home care services. The appropriations in this section shall be reduced by any amounts appropriated by the 2004 legislature for this purpose in separate legislation enacted prior to June 30, 2004.

NEW SECTION. Sec. 4. The sum of fourteen million two hundred seventy-nine thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund—state for the fiscal year ending June 30, 2005, and the sum of fourteen million one hundred seventy-one thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund—federal for the biennium ending June 30, 2005, to the aging and adult services program of the department of social and health services. The appropriations in this section shall be used solely to implement the compensation-related provisions of the collective bargaining agreement between the home care quality authority and the exclusive bargaining representative of the individual providers of home care services. The appropriations in this section shall be reduced by any amounts appropriated by the 2004 legislature for this purpose in separate legislation enacted prior to June 30, 2004.

NEW SECTION. Sec. 5. The sum of ninety-four thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund—state for the fiscal year ending June 30, 2004, and the sum of one million two hundred seventy-six thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund—state for the fiscal year ending June 30, 2005, to the home care quality authority. The appropriations in this section shall be used solely for administrative and employer relations costs associated with implementing the terms of the collective bargaining agreement between the home care quality authority and the exclusive bargaining representative of the individual providers of home care services. The home care quality authority shall transfer funds from this appropriation to the department of social and health services and to the office of financial management as necessary to achieve the terms of the agreement. The appropriations in this section shall be reduced by any amounts appropriated by the 2004 legislature for this purpose in separate legislation enacted prior to June 30, 2004.

NEW SECTION. Sec. 6. The sum of thirteen thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund—state for the fiscal year ending June 30, 2004, and the sum of fifty-two thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund—state for the fiscal year ending June 30, 2005, to the office of financial management.

The appropriations in this section shall be used solely for administrative and employer relations costs associated with implementing Substitute House Bill No. 2933 (home care worker collective bargaining). The appropriations in this section shall be reduced by any amounts appropriated by the 2004 legislature for this purpose in separate legislation enacted prior to June 30, 2004.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 10, 2004.

Passed by the Senate March 10, 2004.

Approved by the Governor April 1, 2004.

Filed in Office of Secretary of State April 1, 2004.

AUTHENTICATION

I, Dennis W. Cooper, Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 2004 regular session (58th Legislature), chapters 202 through 278, respectively, as certified and transmitted to the Statute Law Committee by the Secretary of State under RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 16th day of April, 2004.

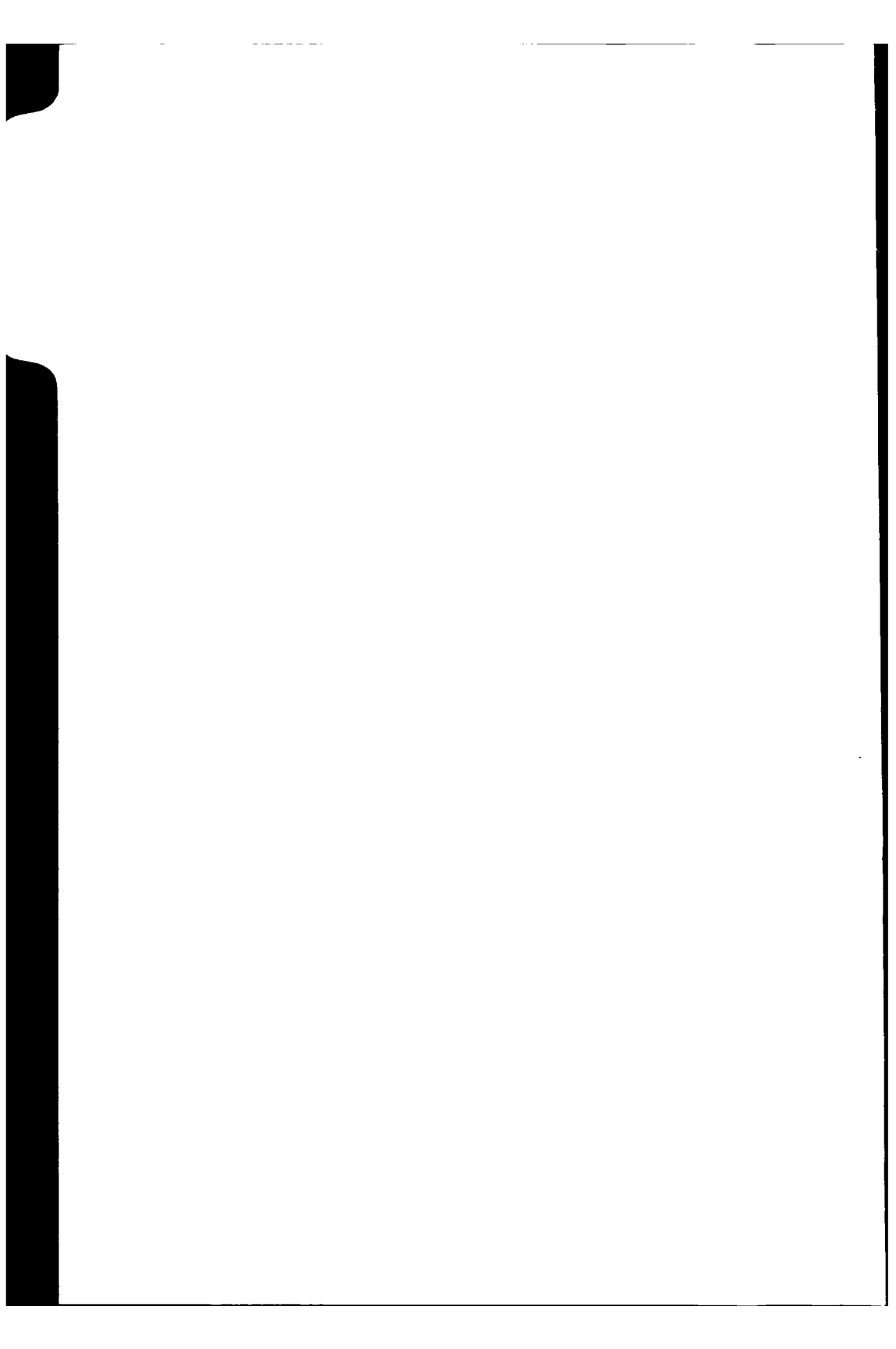
A handwritten signature in black ink that reads "Dennis W. Cooper". The signature is written in a cursive style with a large initial "D" and "C".

DENNIS W. COOPER
Code Reviser

INDEX AND TABLES

(For 2003 3rd special session and 2004 regular session)

TABLES	<i>Page</i>
Cross reference—Bill no. to Chapter no.	1539
RCW sections affected by 2004 laws.....	1543
Uncodified session law sections affected by 2004 laws.....	1557
Subject Index.....	1561



BILL NO. TO CHAPTER NO. OF 2004 STATUTES

Number	Chapter Number Laws of 2004		Number	Chapter Number Laws of 2004	
Init	841	.....1	ESB	6180 12	
	SENATE		ESB	6188 265	
SB	5034	.....270	SSB	6189 165	PV
ESB	5083	.....148	SSB	6208 202	
SSB	5139	.....59	ESSB	6210 145	
SSB	5168	.....121	SSB	6211 21	
E2SSB	5216	.....9	SB	6213 39	
SSB	5326	.....129	SSB	6216 217	
SB	5376	.....205	2SSB	6220 135	
3SSB	5412	.....273	SSB	6225 142	PV
ESSB	5428	.....249	SB	6237 207	
SSB	5436	.....138	SSB	6240 25	
E2SSB	5533	.....29	SSB	6242 263	
2ESSB	5536	.....201	SSB	6245 23	
SSB	5590	.....204	SB	6249 93	
ESSB	5665	.....215	SB	6254 171	
SSB	5732	.....141	SB	6259 154	
SSB	5733	.....140	SSB	6261 127	
2SSB	5793	.....91	SSB	6265 32	
SSB	5797	.....143	SB	6269 219	
ESSB	5861	.....124	ESSB	6270 73	
SB	5869	.....255	E2SSB	6274 157	PV
ESSB	5877	.....20	SSB	6286 203	
E2SSB	5957	.....228	SSB	6302 161	
SB	6091	.....131	2SSB	6304 24	
SSB	6103	.....149	SB	6314 252	
SSB	6105	.....117	SSB	6325 222	
SSB	6107	.....251	SB	6326 118	
ESSB	6112	.....260	SSB	6329 227	
SSB	6113	.....130	SB	6337 53	
SSB	6115	.....155	SB	6338 122	
SSB	6118	.....264	SB	6339 212	
SB	6121	.....72	SSB	6341 51	
SB	6123	.....159	ESSB	6352 13	
ESSB	6125	.....10	SB	6356 163	
SB	6141	.....156	SB	6357 69	
SB	6143	.....125	E2SSB	6358 166	PV
2SSB	6144	.....218	SSB	6367 206	
SSB	6146	.....151	SB	6372 14	
SSB	6148	.....221	SSB	6377 162	
ESSB	6153	.....114	SB	6378 119	
SSB	6155	.....213	SSB	6384 15	
ESB	6158	.....164	SSB	6389 116	
SSB	6160	.....144	ESSB	6401 28	
SSB	6161	.....18	SSB	6402 136	
SB	6164	.....128	SB	6407 60	
SSB	6171	.....134	ESB	6411 54	
SB	6177	.....11	ESSB	6415 225	
			SB	6417 266	

BILL NO. TO CHAPTER NO. OF 2004 STATUTES

Number	Chapter Number Laws of 2004		Number	Chapter Number Laws of 2004
			HOUSE	
SSB	6419		SHB	1322
SSB	6428		SHB	1328
SB	6439		EHB	1433
SB	6448		HB	1572
ESB	6453	PV	HB	1580
SB	6465		HB	1589
SSB	6466		2EHB	1645
ESSB	6472		SHB	1691
SB	6476		EHB	1777
ESSB	6478		SHB	1867
SB	6480		SHB	1995
ESSB	6481		HB	2014
SB	6485		SHB	2055
SB	6488		3ESHB	2195
E2SSB	6489		E2SHB	2295
SB	6490		HB	2297
SB	6493	PV	SHB	2299
SSB	6494		SHB	2300
SSB	6501		HB	2301
SB	6515		SHB	2307
SB	6518		SHB	2308
SSB	6527		SHB	2313
SSB	6534		EHB	2318
ESSB	6554		SHB	2321
SSB	6560		ESHB	2354
SSB	6568		EHB	2364
SSB	6575		SHB	2366
SSB	6581		SHB	2367
SSB	6584		ESHB	2381
SB	6586		SHB	2382
SB	6593		ESHB	2383
ESB	6598		HB	2387
2SSB	6599	PV	ESHB	2400
SSB	6600		HB	2418
SSB	6601		HB	2419
SB	6614		SHB	2431
SSB	6615		SHB	2452
SSB	6641		HB	2453
ESSB	6642		HB	2454
SB	6643		SHB	2455
SSB	6649		ESHB	2459
SB	6650		ESHB	2460
SSB	6655		SHB	2462
SB	6663		HB	2473
SSB	6676		HB	2473
SSB	6688		ESHB	2474
ESSB	6731		SHB	2475
ESB	6737		HB	2476
			HB	2483

03E3

PV

PV

PV

PV

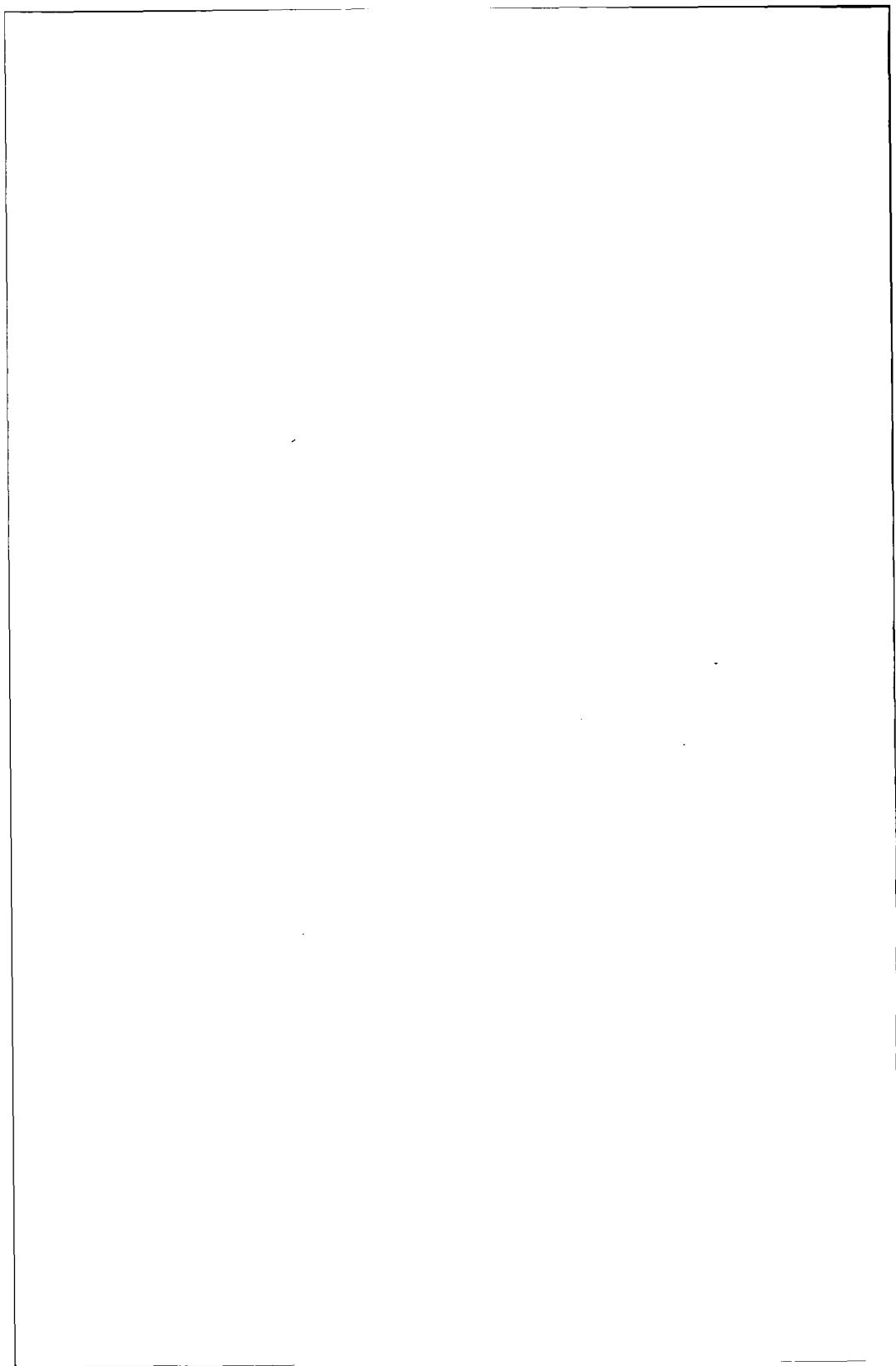
PV

BILL NO. TO CHAPTER NO. OF 2004 STATUTES

Number	Chapter Number Laws of 2004		Number	Chapter Number Laws of 2004	
HB	2485	.....185	SHB	2802	..... 234
ESHB	2488	.....194	HB	2811	..... 191
SHB	2489	.....105	HB	2817	..... 88
SHB	2504	.....195	SHB	2830	..... 49
SHB	2507	.....7	HB	2838	..... 89
HB	2509	.....110	SHB	2849	..... 38
SHB	2510	.....97	HB	2859	..... 27
E2SHB	2518	.....240	SHB	2878	..... 79
HB	2519	.....80	ESHB	2891	..... 113
SHB	2532	.....187	SHB	2904	..... 193
HB	2534	.....170	ESHB	2905	..... 196
HB	2535	.....172	SHB	2908	..... 188
HB	2537	.....242	SHB	2910	..... 35
SHB	2538	.....85	SHB	2919	..... 106
ESHB	2546	.....2	SHB	2929	..... 235
ESHB	2554	.....183	ESHB	2933	..... 3
ESHB	2556	.....41	HB	2934	..... 169
ESHB	2573	.....277	EHB	2968	..... 241
SHB	2575	.....246	SHB	2984	..... 36
HB	2577	.....98	SHB	2985	..... 173
HB	2583	.....43	EHB	2987	..... 90
HB	2598	.....30	SHB	2988	..... 181
HB	2601	.....44	EHB	3036	..... 168
HB	2612	.....77	HB	3045	..... 198
HB	2615	.....190	SHB	3051	..... 64
SHB	2618	.....179	SHB	3055	..... 68
SHB	2621	.....248	SHB	3057	..... 92
SHB	2635	.....78	ESHB	3078	..... 42
HB	2647	.....245	SHB	3081	..... 40
ESHB	2650	.....180	SHB	3083	..... 37
SHB	2657	.....50	2SHB	3085	..... 182
SHB	2660	.....95	SHB	3092	..... 111
HB	2663	.....175	SHB	3103	..... 275
ESHB	2675	.....238	SHB	3103	..... 275
HB	2683	.....31	ESHB	3116	..... 82
SHB	2685	.....61	SHB	3141	..... 224
ESHB	2693	.....177	SHB	3158	..... 8
HB	2703	.....189	HB	3172	..... 108
SHB	2707	.....57	ESHB	3188	..... 243
SHB	2708	.....58			
HB	2727	.....86			
HB	2765	.....47			
ESHB	2771	.....94			
SHB	2781	.....197			
ESHB	2784	.....237			
ESHB	2787	.....87			
SHB	2788	.....184			
HB	2794	.....63			
ESHB	2797	.....192			

PV
PV
PV

PV



RCW SECTIONS AFFECTED BY 2004 STATUTES

LEGEND				RCW	CH.	SEC.
ADD	=	Add a new section		7.08.180	REP	165 47
AMD	=	Amend existing law		7.08.190	REP	165 47
DECD	=	Decodify existing law		7.08.200	REP	165 47
RECD	=	Recodify existing law		7.56.110	AMD	165 38
REEN	=	Reenact existing law		7.60	ADD	165 2-32
REMD	=	Rcenact and amend		7.60.010	REP	165 47
REP	=	Repeal existing law		7.60.020	REP	165 47
				7.60.030	REP	165 47
				7.60.040	REP	165 47
				7.60.050	REP	165 47
				7.64.020	AMD	74 1
				7.64.035	AMD	74 2
				7.64.045	AMD	74 3
				7.69.030	AMD	120 8
				7.69A.030	AMD	120 9
				7.72	ADD	139 1
				7.80.150	AMD	43 1
				7.84.030	AMD	43 2
				9.35.020	AMD	273 2
				9.41	ADD	148 1
				9.41.300	AMD	16 1
				9.41.300	AMD	116 1
				9.46.100	AMD	276 903
				9.61	ADD	94 1
				9.73.095	AMD	13 2
				9.91.025	AMD	118 1
				9.92.151	AMD	176 5
				9.94A	ADD	166 7,9,11
				9.94A.515	REEN	176 2
				9.94A.515	REMD	94 2
				9.94A.515	REMD	94 3
				9.94A.637	AMD	121 2
				9.94A.670	AMD	38 9
				9.94A.670	AMD	176 4
				9.94A.712	REEN	176 3
				9.94A.728	AMD	176 6
				9.94A.760	AMD	121 3
				9.94A.772	AMD	121 4
				9.94A.820	AMD	38 10
				9.95	ADD	166 10
				9A.46.060	AMD	94 4
				9A.46.100	AMD	94 5
				9A.52.010	AMD	69 1
				9A.56.020	AMD	122 1
				9A.56.140	AMD	122 2
				9A.60.040	AMD	11 1
				9A.60.045	AMD	11 2
				9A.60.045	AMD	124 1
				10.05.140	AMD	95 1
				10.77	ADD	157 3,4
RCW		CH.	SEC.			
2.36.150	AMD	127	1			
3.46.120	AMD	15	7			
3.50.100	AMD	15	3			
3.62.020	REMD	15	4			
3.62.040	AMD	15	8			
3.62.090	AMD	15	5			
4.16.300	AMD	257	1			
4.24	ADD	166	21			
4.24.250	AMD	145	1			
4.24.300	AMD	87	1			
4.24.556	AMD	38	1			
4.28.081	REP	165	47			
4.28.320	AMD	165	33			
4.56.110	AMD	185	2			
4.56.115	AMD	185	1			
4.84.080	AMD	123	1			
6.25.200	REP	165	47			
6.32.100	AMD	165	34			
6.32.150	AMD	165	35			
6.32.290	REP	165	47			
6.32.300	REP	165	47			
6.32.310	REP	165	47			
6.32.320	REP	165	47			
6.32.330	REP	165	47			
6.32.340	REP	165	47			
6.32.350	REP	165	47			
7.08.010	AMD	165	36			
7.08.020	REP	165	47			
7.08.030	AMD	165	37			
7.08.050	REP	165	47			
7.08.060	REP	165	47			
7.08.070	REP	165	47			
7.08.080	REP	165	47			
7.08.090	REP	165	47			
7.08.100	REP	165	47			
7.08.110	REP	165	47			
7.08.120	REP	165	47			
7.08.130	REP	165	47			
7.08.140	REP	165	47			
7.08.150	REP	165	47			
7.08.170	REP	165	47			

RCW SECTIONS AFFECTED BY 2004 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
10.77	ADD	166	3	15.28	ADD	99	1
10.77.010	AMD	157	2	15.36.551	AMD	132	1
10.77.060	AMD	9	1	15.44	ADD	99	2
10.82.070	AMD	15	6	15.58.030	AMD	100	6
10.82.090	AMD	121	1	15.66	ADD	99	3
10.99	ADD	15	2	15.66.070	AMD	179	1
10.99	ADD	18	3	15.66.080	AMD	179	2
10.99.020	AMD	18	2	15.66.090	AMD	179	3
11.12	ADD	72	1	16.36.010	AMD	251	1
11.28.330	AMD	193	1	16.36.060	AMD	251	2
11.28.340	AMD	193	2	16.36.090	AMD	251	3
11.64.022	AMD	165	39	16.36.098	AMD	251	4
11.88.010	AMD	267	139	16.52	ADD	220	1
12.20.060	AMD	123	2	16.52	ADD	234	1
12.40.105	AMD	70	1	16.57	ADD	233	1
13.04.040	AMD	120	10	17.21.020	AMD	100	1
13.32A.152	AMD	64	5	17.21.126	AMD	100	2
13.34	ADD	146	2,3	17.21.128	AMD	100	3
13.34.040	AMD	64	3	17.21.132	AMD	100	4
13.34.062	AMD	147	2	17.21.140	AMD	100	5
13.34.067	AMD	147	1	18.04.035	AMD	159	1
13.34.070	AMD	64	4	18.04.105	AMD	159	2
13.34.094	AMD	147	3	18.04.180	AMD	159	3
13.34.136	AMD	146	1	18.04.295	AMD	159	4
13.34.160	AMD	183	1	18.04.370	REMD	159	5
13.34.270	AMD	183	2	18.06.050	AMD	262	2
13.40.010	AMD	120	1	18.16	ADD	51	2
13.40.020	REMD	120	2	18.16.030	REMD	51	7
13.40.0357	REMD	117	1	18.16.060	REMD	51	1
13.40.080	REMD	120	3	18.16.110	AMD	51	3
13.40.127	AMD	117	2	18.16.160	AMD	51	8
13.40.160	REMD	38	11	18.16.165	REP	51	9
13.40.160	REMD	120	4	18.16.200	REMD	51	4
13.40.165	AMD	120	5	18.16.260	AMD	51	5
13.40.190	REMD	120	6	18.20	ADD	142	2-10
13.40.200	AMD	120	7	18.20	ADD	144	2,4
13.50.050	REMD	42	1	18.20.020	AMD	142	1
15	ADD	26	1-8	18.20.030	AMD	142	17
15.17.050	AMD	211	1	18.20.050	AMD	140	1
15.24	ADD	178	1,4,5,8	18.20.110	AMD	144	3
15.24.020	AMD	178	2	18.20.120	REP	140	7
15.24.030	AMD	178	3	18.20.125	AMD	140	4
15.24.040	AMD	178	6	18.20.160	AMD	142	12
15.24.050	AMD	178	7	18.20.195	AMD	140	5
15.24.070	AMD	178	9	18.20.290	AMD	142	13
15.24.090	AMD	178	10	18.29.180	AMD	262	4
15.24.100	AMD	178	11	18.29.190	AMD	262	3
15.24.110	AMD	178	12	18.34.070	AMD	262	5
15.24.160	AMD	178	13	18.64.044	REMD	52	2
15.24.190	AMD	178	14	18.64.046	AMD	52	3

RCW SECTIONS AFFECTED BY 2004 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
18.64.047	AMD	52	4	24.03.050	AMD	265	8
18.79	ADD	262	7	24.03.055	AMD	265	9
18.79.160	AMD	262	6	24.03.065	AMD	98	1
18.83.050	AMD	262	8	24.03.075	AMD	98	2
18.83.070	AMD	262	9	24.03.080	AMD	265	10
18.83.072	AMD	262	10	24.03.085	AMD	265	11
18.83.082	AMD	262	11	24.03.113	AMD	265	12
18.83.170	AMD	262	12	24.03.120	AMD	265	13
18.89.050	AMD	262	13	24.03.135	AMD	265	14
18.89.110	AMD	262	14	24.03.155	AMD	265	15
18.130.040	REMD	38	2	24.03.165	AMD	265	16
18.155	ADD	38	6	24.03.170	AMD	265	17
18.155.020	AMD	38	3	24.03.183	AMD	265	18
18.155.030	AMD	38	4	24.03.195	AMD	265	19
18.155.040	AMD	38	5	24.03.200	AMD	265	20
18.155.080	AMD	38	7	24.03.207	AMD	265	21
18.155.090	AMD	38	8	24.03.215	AMD	265	22
18.170	ADD	50	3	24.03.220	AMD	265	23
18.170.010	AMD	50	1	24.03.230	AMD	265	24
18.170.100	AMD	50	2	24.03.235	AMD	265	25
18.185	ADD	186	3,5,6	24.03.240	AMD	265	26
			10-12	24.03.275	REP	165	47
18.185.010	AMD	186	2	24.03.280	REP	165	47
18.185.040	AMD	186	4	24.03.285	REP	165	47
18.185.090	AMD	186	7	24.03.310	REP	165	47
18.185.100	AMD	186	8	24.03.315	REP	165	47
18.185.110	AMD	186	9	24.03.320	REP	165	47
18.185.170	AMD	186	13	24.03.330	AMD	265	27
19	ADD	119	1	24.03.332	AMD	265	28
19	ADD	168	1-12	24.03.340	AMD	265	29
19.52.025	AMD	185	4	24.03.345	AMD	265	30
19.126.020	AMD	160	19	24.03.365	AMD	265	31
20.01.010	AMD	212	1	24.03.380	AMD	265	32
20.01.210	AMD	212	2	24.03.410	AMD	265	33
20.01.465	AMD	212	3	24.03.425	AMD	265	34
20.01.482	AMD	43	3	24.03.430	AMD	265	35
23.72.010	REP	165	47	24.03.445	AMD	265	36
23.72.020	REP	165	47	24.03.450	AMD	265	37
23.72.030	REP	165	47	24.03.460	AMD	265	38
23.72.040	REP	165	47	24.03.465	AMD	265	39
23.72.050	REP	165	47	24.06	ADD	265	40
23.72.060	REP	165	47	24.06.305	AMD	165	41
23B.14.320	AMD	165	40	26.09.191	AMD	38	12
24.03	ADD	265	4	26.10.034	AMD	64	1
24.03.005	AMD	265	1	26.10.160	AMD	38	13
24.03.007	AMD	265	2	26.26.330	AMD	111	1
24.03.008	AMD	265	3	26.33.040	AMD	64	2
24.03.017	AMD	265	5	26.44.060	AMD	37	1
24.03.020	AMD	265	6	28A	ADD	22	1-16
24.03.045	AMD	265	7				25

RCW SECTIONS AFFECTED BY 2004 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
28A.150.010	AMD	22	24	28B.04.030	AMD	275	30
28A.155	ADD	19	104	28B.04.080	AMD	275	31
28A.160.195	AMD	276	904	28B.04.085	AMD	275	32
28A.165	ADD	20	1-9	28B.10	ADD	46	1
28A.165.010	REP	20	10	28B.10	ADD	161	1
28A.165.012	REP	20	10	28B.10.020	AMD	275	47
28A.165.030	REP	20	10	28B.10.029	REMD	167	10
28A.165.040	REP	20	10	28B.10.044	AMD	275	14
28A.165.050	REP	20	10	28B.10.044	RECD	275	77
28A.165.060	REP	20	10	28B.10.050	AMD	275	48
28A.165.070	REP	20	10	28B.10.140	AMD	60	1
28A.165.080	REP	20	10	28B.10.210	REP	275	75
28A.165.090	REP	20	10	28B.10.215	REP	275	75
28A.180	ADD	19	105	28B.10.220	REP	275	75
28A.195.010	AMD	19	106	28B.10.650	AMD	275	45
28A.200.010	AMD	19	107	28B.10.790	AMD	275	44
28A.220	ADD	126	1	28B.10.800	AMD	275	34
28A.230	ADD	19	203	28B.10.800	RECD	275	78
28A.230.090	AMD	19	103	28B.10.801	RECD	275	78
28A.235	ADD	54	2	28B.10.802	AMD	275	35
28A.300	ADD	247	6	28B.10.802	RECD	275	78
28A.305.220	AMD	19	108	28B.10.804	AMD	275	36
28A.305.280	REP	275	75	28B.10.804	RECD	275	78
28A.305.285	REP	275	75	28B.10.806	RECD	275	78
28A.320	ADD	29	3	28B.10.808	AMD	275	37
28A.335.060	AMD	45	1	28B.10.808	RECD	275	78
28A.335.130	AMD	6	2	28B.10.8081	AMD	275	38
28A.335.240	AMD	6	1	28B.10.8081	RECD	275	78
28A.400	ADD	29	2	28B.10.810	AMD	275	39
28A.400	ADD	135	1	28B.10.810	RECD	275	78
28A.410	ADD	29	4	28B.10.812	RECD	275	78
28A.410.090	AMD	134	2	28B.10.814	RECD	275	78
28A.410.095	AMD	134	1	28B.10.816	AMD	275	40
28A.500.020	AMD	21	1	28B.10.816	RECD	275	78
28A.600.110	AMD	275	46	28B.10.818	AMD	275	41
28A.655	ADD	19	101	28B.10.818	RECD	275	78
28A.655.030	AMD	19	205	28B.10.820	AMD	275	42
28A.655.060	REP	19	206	28B.10.820	RECD	275	78
28A.655.070	AMD	19	204	28B.10.821	RECD	275	78
28A.660.010	AMD	23	1	28B.10.822	AMD	275	43
28A.660.020	AMD	23	2	28B.10.822	RECD	275	78
28A.660.030	AMD	23	3	28B.10.824	REP	275	75
28A.660.040	AMD	23	4	28B.10.859	AMD	275	19
28A.660.050	AMD	23	5	28B.10.859	RECD	275	77
28A.660.900	REP	23	7	28B.10.866	RECD	275	77
28A.660.901	AMD	23	6	28B.10.867	RECD	275	77
28B	ADD	275	1,9,11	28B.10.868	AMD	275	20
			12	28B.10.868	RECD	275	77
			76-78	28B.10.869	RECD	275	77
28B.04.020	AMD	275	29	28B.10.870	RECD	275	77

RCW SECTIONS AFFECTED BY 2004 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
28B.10.871	RECD	275	77	28B.80.175	AMD	275	17
28B.10.872	RECD	275	77	28B.80.175	RECD	275	77
28B.10.873	AMD	275	21	28B.80.180	RECD	275	77
28B.10.873	RECD	275	77	28B.80.200	AMD	275	5
28B.10.874	REP	275	75	28B.80.200	RECD	275	77
28B.10.880	RECD	275	77	28B.80.210	RECD	275	77
28B.10.881	RECD	275	77	28B.80.230	RECD	275	77
28B.10.882	AMD	275	22	28B.80.240	RECD	275	77
28B.10.882	RECD	275	77	28B.80.245	AMD	275	24
28B.10.883	RECD	275	77	28B.80.245	RECD	275	77
28B.10.884	RECD	275	77	28B.80.246	AMD	275	25
28B.10.885	RECD	275	77	28B.80.246	RECD	275	77
28B.10.886	RECD	275	77	28B.80.255	REP	275	75
28B.10.887	REP	275	75	28B.80.265	REP	275	75
28B.15.012	AMD	128	1	28B.80.272	RECD	275	77
28B.15.070	AMD	275	15	28B.80.280	AMD	275	10
28B.15.070	RECD	275	77	28B.80.280	RECD	275	77
28B.15.076	AMD	275	16	28B.80.290	AMD	55	5
28B.15.076	RECD	275	77	28B.80.290	REP	275	75
28B.15.543	AMD	275	49	28B.80.300	RECD	275	77
28B.15.545	AMD	275	50	28B.80.310	RECD	275	77
28B.15.600	AMD	161	2	28B.80.320	REP	275	75
28B.15.605	AMD	161	3	28B.80.330	AMD	275	7
28B.15.625	AMD	161	4	28B.80.330	RECD	275	77
28B.15.760	AMD	275	65	28B.80.335	AMD	275	8
28B.15.820	AMD	275	66	28B.80.335	RECD	275	77
28B.15.910	AMD	275	51	28B.80.340	REP	275	75
28B.20	ADD	151	1,2	28B.80.345	AMD	275	6
28B.20.130	AMD	275	52	28B.80.345	RECD	275	77
28B.20.285	AMD	151	3	28B.80.350	RECD	275	77
28B.20.287	AMD	151	4	28B.80.360	AMD	275	18
28B.30	ADD	57	6	28B.80.360	RECD	275	77
28B.30.150	AMD	275	53	28B.80.370	RECD	275	77
28B.35.120	AMD	275	54	28B.80.380	AMD	275	2
28B.38.010	AMD	275	55	28B.80.380	RECD	275	77
28B.40.120	AMD	275	56	28B.80.390	RECD	275	77
28B.45	ADD	57	1,2,6	28B.80.400	AMD	275	3
28B.45	ADD	275	79	28B.80.400	RECD	275	77
28B.45.050	AMD	57	3	28B.80.410	RECD	275	77
28B.45.050	RECD	57	6	28B.80.420	RECD	275	77
28B.45.070	REP	57	7	28B.80.430	AMD	275	4
28B.50.090	AMD	275	57	28B.80.430	RECD	275	77
28B.50.140	AMD	275	58	28B.80.440	REP	275	75
28B.50.360	AMD	277	910	28B.80.442	REP	275	75
28B.80	ADD	55	2,3	28B.80.450	REP	275	75
28B.80.110	RECD	275	77	28B.80.500	REP	57	7
28B.80.150	RECD	275	77	28B.80.500	REP	275	75
28B.80.160	AMD	275	23	28B.80.510	AMD	57	5
28B.80.160	RECD	275	77	28B.80.510	RECD	57	6
28B.80.170	RECD	275	77	28B.80.510	RECD	275	79

RCW SECTIONS AFFECTED BY 2004 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
28B.80.520	REP	57	7	29.33.305	RECD	266	23
28B.80.520	REP	275	75	29.33.305	REEN	266	3
28B.80.600	REP	275	75	29.51.215	REP	266	21
28B.80.610	REP	275	75	29.79.075	RECD	266	24
28B.80.612	REP	275	75	29.79.075	REEN	266	4
28B.80.614	REP	275	75	29A	ADD	267	301-308
28B.80.616	REP	275	75				310-314
28B.80.620	AMD	275	26	29A.04	ADD	266	22
28B.80.620	RECD	275	77	29A.04	ADD	267	201-203
28B.80.622	RECD	275	77				401,501
28B.80.624	RECD	275	77	29A.04	ADD	271	102-106
28B.80.626	AMD	275	27				151,152
28B.80.626	RECD	275	77				187
28B.80.805	RECD	275	77	29A.04.007	REP	271	193
28B.80.806	RECD	275	77	29A.04.085	REP	271	193
28B.80.807	RECD	275	77	29A.04.127	REP	271	193
28B.80.810	RECD	275	77	29A.04.181	REP	267	703
28B.80.910	REP	275	75	29A.04.215	REP	271	193
28B.80.911	REP	275	75	29A.04.255	AMD	266	5
28B.80.912	REP	275	75	29A.04.310	REP	271	193
28B.85.020	AMD	96	1	29A.04.320	REP	271	193
28B.85.040	AMD	96	2	29A.04.330	AMD	266	6
28B.95.020	AMD	275	59	29A.04.610	AMD	267	702
28B.101.020	AMD	275	67	29A.04.610	REP	271	193
28B.102	ADD	58	8,9	29A.08	ADD	267	101,106
28B.102.010	AMD	58	1				125,136
28B.102.020	AMD	58	2				137,140
28B.102.030	AMD	58	3	29A.08	ADD	271	107,108
28B.102.040	AMD	58	4	29A.08.010	AMD	267	102
28B.102.040	AMD	275	68	29A.08.020	AMD	267	103
28B.102.040	AMD	276	905	29A.08.030	AMD	267	104
28B.102.045	AMD	58	5	29A.08.105	AMD	267	105
28B.102.050	AMD	58	6	29A.08.110	AMD	267	107
28B.102.060	AMD	58	7	29A.08.115	AMD	267	108
28B.102.070	REP	58	11	29A.08.120	AMD	267	109
28B.102.905	REP	58	11	29A.08.125	AMD	267	110
28B.108.010	AMD	275	69	29A.08.135	AMD	267	111
28B.115.050	AMD	275	70	29A.08.140	AMD	267	112
28B.119.010	AMD	275	60	29A.08.145	AMD	267	113
28B.119.030	AMD	275	71	29A.08.155	AMD	267	114
28B.133.010	AMD	275	72	29A.08.220	AMD	267	115
28B.133.020	AMD	275	73	29A.08.240	AMD	267	116
28B.133.050	AMD	275	74	29A.08.250	AMD	267	117
28C.04.545	AMD	275	61	29A.08.260	AMD	267	118
29.04.075	RECD	266	22	29A.08.320	AMD	266	7
29.04.075	REEN	266	1	29A.08.320	AMD	267	119
29.04.260	RECD	266	22	29A.08.350	AMD	267	120
29.04.260	REEN	266	2	29A.08.360	AMD	267	121
29.19.020	AMD	1 E303	1	29A.08.420	AMD	267	122
29.33.305	AMD	267	701	29A.08.430	AMD	267	123

RCW SECTIONS AFFECTED BY 2004 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
29A.08.510	AMD	267	124	29A.24.190	REP	271	193
29A.08.520	AMD	267	126	29A.24.310	REP	271	193
29A.08.530	REP	267	703	29A.28	ADD	271	118-120
29A.08.540	AMD	267	127				191,192
29A.08.605	AMD	267	128	29A.28.040	REP	271	193
29A.08.610	AMD	267	129	29A.28.060	REP	271	193
29A.08.620	AMD	266	8	29A.28.070	REP	271	193
29A.08.620	AMD	267	130	29A.32	ADD	271	121-123
29A.08.630	AMD	267	131				168
29A.08.640	AMD	267	132	29A.32.030	REP	271	193
29A.08.645	REP	267	703	29A.32.120	REEN	266	12
29A.08.650	REP	267	703	29A.32.120	REP	271	193
29A.08.710	AMD	267	133	29A.32.240	REP	271	193
29A.08.720	AMD	266	9	29A.36	ADD	271	124-133
29A.08.750	REP	267	704				169-171
29A.08.760	AMD	267	134	29A.36.010	REP	271	193
29A.08.770	AMD	267	135	29A.36.070	REP	271	193
29A.12	ADD	266	23	29A.36.100	REP	271	193
29A.12	ADD	267	321,601	29A.36.110	REP	271	193
29A.12	ADD	271	109	29A.36.120	REP	271	193
29A.12.100	REP	271	193	29A.36.130	REP	271	193
29A.16.010	AMD	267	315	29A.36.140	REP	271	193
29A.16.040	AMD	266	10	29A.36.150	REP	271	193
29A.16.130	AMD	267	316	29A.36.160	REP	271	193
29A.20	ADD	271	110-113	29A.36.170	AMD	75	1
			153-157	29A.36.170	REP	271	193
			188,189	29A.36.200	REP	271	193
29A.20.020	AMD	266	11	29A.36.210	AMD	80	2
29A.20.020	REP	271	193	29A.40	ADD	271	134,135
29A.20.120	REP	271	193	29A.40.060	REP	271	193
29A.20.140	REP	271	193	29A.40.070	REEN	266	13
29A.20.150	REP	271	193	29A.40.090	REP	271	193
29A.20.160	REP	271	193	29A.44	ADD	271	136-138
29A.20.170	REP	271	193	29A.44.030	AMD	267	317
29A.20.180	REP	271	193	29A.44.040	AMD	267	318
29A.20.190	REP	271	193	29A.44.200	REP	271	193
29A.24	ADD	271	114-117	29A.44.220	AMD	267	319
			158-167	29A.44.220	REP	271	193
			190	29A.44.230	REP	271	193
29A.24.030	REP	271	193	29A.44.350	AMD	267	320
29A.24.080	REP	271	193	29A.48.010	REEN	266	14
29A.24.090	REP	271	193	29A.48.020	REEN	266	15
29A.24.100	REP	271	193	29A.52	ADD	271	139-146
29A.24.110	REP	271	193				172-175
29A.24.130	REP	271	193	29A.52.010	REP	271	193
29A.24.140	REP	271	193	29A.52.110	REP	271	193
29A.24.150	REP	271	193	29A.52.120	REP	271	193
29A.24.160	REP	271	193	29A.52.230	REP	271	193
29A.24.170	REP	271	193	29A.52.310	REP	271	193
29A.24.180	REP	271	193	29A.52.320	REP	271	193

RCW SECTIONS AFFECTED BY 2004 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
29A.52.350	REP	271	193	36.24.140	AMD	79	2
29A.56.020	AMD	1	E303 2	36.29.024	AMD	79	3
29A.60	ADD	271	147,176	36.70	ADD	210	3
29A.60.020	REP	271	193	36.70A	ADD	28	2
29A.60.030	AMD	266	16	36.70A.070	AMD	196	1
29A.60.080	AMD	266	17	36.70A.106	AMD	197	1
29A.60.190	AMD	266	18	36.70A.110	AMD	206	1
29A.60.220	REP	271	193	36.70A.177	AMD	207	1
29A.64	ADD	271	177-181	36.70A.367	AMD	208	1
29A.64.010	REP	271	193	36.70B.080	AMD	191	2
29A.64.020	REP	271	193	39.33	ADD	277	912
29A.64.040	REP	271	193	39.34.030	AMD	190	1
29A.64.060	REP	271	193	39.96.010	AMD	108	1
29A.64.080	REP	271	193	39.96.020	AMD	108	2
29A.68	ADD	271	182	39.96.070	REP	108	3
29A.68.010	REP	271	193	41	ADD	242	1-4
29A.72	ADD	266	24				6-35
29A.80	ADD	271	148-150	41.04	ADD	3	3
			183	41.04.208	AMD	173	1
29A.80.010	REP	271	193	41.26.470	AMD	4	1
29A.80.040	REP	271	193	41.26.500	AMD	242	54
29A.80.050	REP	271	193	41.26.510	AMD	5	1
29A.80.060	REP	271	193	41.32	ADD	22	21
29A.84	ADD	267	138,309	41.32.4851	AMD	85	1
29A.84	ADD	271	184-186	41.32.800	AMD	242	55
29A.84.240	REMD	266	19	41.32.802	AMD	242	61
29A.84.260	REP	271	193	41.32.862	AMD	242	62
29A.84.270	REEN	266	20	41.35	ADD	22	22
29A.84.310	REP	271	193	41.35	ADD	172	3,4
29A.84.710	REP	271	193	41.35.060	AMD	242	64
31.12	ADD	165	42	41.35.230	AMD	242	56
34.05	ADD	175	2	41.40	ADD	22	23
34.05.230	AMD	31	3	41.40	ADD	172	1,2
34.05.310	AMD	31	1	41.40	ADD	242	5
34.05.320	AMD	31	2	41.40.010	AMD	242	53
34.05.353	AMD	31	4	41.40.037	REMD	242	63
34.05.570	AMD	30	1	41.40.1984	AMD	85	2
35.07	ADD	165	43	41.40.690	AMD	242	57
35.20.220	AMD	15	9	41.45.010	AMD	242	36
35.21	ADD	256	2	41.45.020	AMD	93	1
35.21.717	AMD	154	1	41.45.020	AMD	242	37
35.21.766	AMD	129	34	41.45.035	AMD	93	2
35.63	ADD	210	1	41.45.050	AMD	242	38
35.63.160	AMD	256	5	41.45.060	REMD	242	39
35A.06.050	AMD	268	2	41.45.061	REMD	242	40
35A.15	ADD	165	44	41.45.070	REMD	242	41
35A.21	ADD	256	3	41.50.030	AMD	242	42
35A.63	ADD	210	2	41.50.060	AMD	242	43
36.01	ADD	256	4	41.50.075	AMD	242	44
36.24.130	AMD	79	1	41.50.080	AMD	242	45

RCW SECTIONS AFFECTED BY 2004 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
41.50.110	AMD	242	46	43.160.060	REMD	252	3
41.50.150	AMD	242	47	43.160.200	AMD	252	4
41.50.152	AMD	242	48	43.330	ADD	276	718
41.50.255	AMD	242	49	44.04	ADD	175	1
41.50.500	AMD	242	50	46.01.235	AMD	249	9
41.50.670	AMD	242	51	46.04	ADD	35	2
41.50.790	AMD	242	52	46.04	ADD	48	2
41.54.010	AMD	242	58	46.04	ADD	249	1
41.54.040	AMD	242	59	46.04.355	AMD	118	2
41.56	ADD	22	17,18	46.09	ADD	105	10
41.56.030	AMD	3	6	46.09.020	AMD	105	1
41.56.113	AMD	3	7	46.09.050	AMD	105	9
41.59	ADD	22	19,20	46.09.070	AMD	106	1
42.16.010	AMD	56	1	46.09.110	AMD	105	2
42.17	ADD	142	16	46.09.130	AMD	105	3
42.17	ADD	167	9	46.09.130	AMD	105	4
43	ADD	237	1-6	46.09.170	REMD	105	5
43.01	ADD	3	4	46.09.170	REMD	105	6
43.06.335	AMD	245	1	46.09.240	AMD	105	7
43.20A.725	AMD	254	1	46.09.280	AMD	105	8
43.21B.001	AMD	204	1	46.12.030	AMD	188	1
43.21B.190	AMD	204	2	46.12.040	AMD	200	1
43.21B.230	AMD	204	3	46.12.101	AMD	200	2
43.21B.300	AMD	204	4	46.12.101	AMD	223	1
43.21B.310	REMD	204	5	46.12.370	REMD	230	1
43.22.434	AMD	137	1	46.16	ADD	35	1,4
43.30.385	AMD	103	1	46.16	ADD	48	1,4
43.30.700	AMD	199	101	46.16	ADD	221	1,2,4
43.31.422	AMD	77	1	46.16	ADD	222	1
43.31.428	AMD	77	2	46.16.023	AMD	223	2
43.42	ADD	32	1	46.16.216	AMD	231	4
43.43.295	AMD	170	1	46.16.290	AMD	223	3
43.43.295	AMD	171	1	46.16.313	AMD	35	3
43.52.560	AMD	189	1	46.16.313	AMD	48	3
43.70.460	AMD	184	1	46.16.313	AMD	221	3
43.70.470	AMD	184	2	46.16.316	AMD	35	5
43.70.510	AMD	145	2	46.16.316	AMD	48	5
43.79.465	AMD	275	64	46.16.316	AMD	221	5
43.79A.040	REMD	58	10	46.16.316	AMD	223	4
43.79A.040	REMD	246	8	46.16.381	AMD	222	2
43.82.010	AMD	277	906	46.16.590	AMD	223	5
43.83.020	AMD	276	907	46.16.735	AMD	222	3
43.84.092	REMD	242	60	46.16.755	AMD	222	4
43.88.030	AMD	276	908	46.20	ADD	273	3,4
43.105.825	AMD	275	62	46.20.035	AMD	249	2
43.105.830	AMD	276	909	46.20.055	REMD	249	3
43.105.835	AMD	276	910	46.20.070	REMD	249	4
43.157.010	AMD	275	63	46.20.117	AMD	249	5
43.160.020	AMD	252	1	46.20.120	AMD	249	6
43.160.030	AMD	252	2	46.20.155	AMD	249	7

RCW SECTIONS AFFECTED BY 2004 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
46.20.270	AMD	231	5	48.09	ADD	89	1,2
46.20.308	AMD	95	2	48.13.240	AMD	88	1
46.20.308	REMD	68	2	48.14.0201	AMD	260	24
46.20.308	REMD	187	1	48.18	ADD	84	1
46.20.3101	REMD	68	3	48.19.035	AMD	86	1
46.20.3101	REMD	95	4	48.20	ADD	112	2
46.20.311	AMD	95	3	48.20.272	REP	112	6
46.20.342	AMD	95	5	48.21	ADD	112	3
46.20.380	AMD	95	6	48.21.045	AMD	244	1
46.20.391	REMD	95	7	48.21.143	AMD	244	10
46.20.394	AMD	95	8	48.22.030	AMD	90	1
46.20.400	AMD	95	9	48.23.430	AMD	91	1
46.20.410	AMD	95	10	48.23.440	AMD	91	2
46.20.720	AMD	95	11	48.31	ADD	260	20
46.20.740	AMD	95	12	48.41.030	AMD	260	25
46.25	ADD	187	6	48.41.060	AMD	260	26
46.25.010	AMD	187	2	48.43	ADD	115	1
46.25.060	AMD	187	3	48.43	ADD	260	19
46.25.070	AMD	187	4	48.43.005	REMD	244	2
46.25.080	AMD	187	5	48.43.015	AMD	192	5
46.25.080	AMD	249	8	48.43.018	AMD	244	3
46.25.090	REMD	187	7	48.43.035	AMD	244	4
46.25.130	AMD	187	8	48.44	ADD	112	4
46.25.160	AMD	187	9	48.44.022	AMD	244	6
46.44.015	REP	109	2	48.44.023	AMD	244	7
46.44.0941	AMD	109	1	48.44.315	AMD	244	12
46.44.170	AMD	79	4	48.46	ADD	112	5
46.52.130	AMD	49	1	48.46.064	AMD	244	8
46.55.120	AMD	250	1	48.46.066	AMD	244	9
46.61.5055	AMD	95	13	48.46.272	AMD	244	14
46.61.506	AMD	68	4	48.62	ADD	255	3
46.61.690	AMD	231	1	48.62.021	AMD	255	2
46.63	ADD	231	3,6	48.66.045	AMD	83	1
46.63.020	AMD	95	14	48.99	ADD	260	21
46.63.030	AMD	231	2	49.12.460	AMD	44	1
46.63.070	AMD	187	10	49.17	ADD	1	1,2
46.64.010	AMD	43	4	49.17	ADD	272	1,2
46.64.015	AMD	43	5	49.44	ADD	12	1
46.68.020	AMD	200	3	49.48.200	AMD	7	1
46.68.041	AMD	95	15	49.48.210	AMD	7	2
46.68.260	AMD	95	16	49.70.170	AMD	276	911
46.82.420	AMD	126	2	50.12.220	AMD	97	1
47.04	ADD	131	2	50.13.020	AMD	121	5
47.05.022	AMD	232	1	50.20.100	AMD	110	2
47.17.160	AMD	205	1	50.20.240	AMD	110	1
47.46	ADD	230	2	50.29.020	AMD	110	3
47.52.001	AMD	131	1	51.04.030	AMD	65	1
48	ADD	260	1-18	51.04.050	AMD	65	2
48.02.190	AMD	260	22	51.08.177	AMD	243	1
48.03.060	AMD	260	23	51.12.070	AMD	243	2

RCW SECTIONS AFFECTED BY 2004 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
51.16	ADD	243	4				301
51.16.120	AMD	258	1				401-407
51.28	ADD	163	1				501,601
51.28.010	AMD	65	3				701,801
51.28.020	AMD	65	4				901
51.28.025	AMD	65	5				1001
51.28.030	AMD	65	6				1101
51.28.055	AMD	65	7				1201
51.32.055	AMD	65	8				1301
51.32.090	REMD	65	9				1401
51.32.095	AMD	65	10				1501
51.32.220	AMD	92	1				1601
51.32.240	AMD	243	7				1701
51.36	ADD	65	16				1801
51.36.010	AMD	65	11				1901
51.36.060	AMD	65	12				2001
51.36.110	AMD	65	13				2002
51.36.110	AMD	243	6	64.06	ADD	114	2
51.48	ADD	243	3,5	64.06.020	AMD	114	1
51.48.060	AMD	65	14	64.34	ADD	201	1
51.52	ADD	259	1	64.34.020	AMD	201	9
51.52.010	AMD	65	15	64.34.100	AMD	201	2
51.52.050	AMD	243	8	64.34.312	AMD	201	10
52	ADD	129	1-12	64.34.324	AMD	201	3
			14-18	64.34.410	AMD	201	11
			24-33	64.34.425	AMD	201	4
53.08	ADD	78	1	64.34.445	AMD	201	5
54.04	ADD	113	2	64.34.450	AMD	201	6
54.12.010	AMD	113	1	64.34.452	AMD	201	7
54.16.330	AMD	158	1	64.38	ADD	169	1
57.08.005	AMD	202	1	66.04.010	AMD	160	1
57.90.010	AMD	129	13	66.08.026	AMD	63	1
58.17.040	AMD	239	1	66.16.040	AMD	61	1
59.18	ADD	17	2-5	66.16.041	AMD	63	2
59.18.270	AMD	136	1	66.24.010	AMD	133	1
59.18.356	REP	17	6	66.24.200	AMD	160	2
59.20.170	AMD	136	2	66.24.203	AMD	160	3
60.40.010	AMD	73	2	66.24.206	AMD	160	4
60.80.005	AMD	215	7	66.24.230	AMD	160	5
60.80.010	AMD	215	8	66.24.250	AMD	160	6
60.80.020	AMD	215	9	66.24.261	AMD	160	7
61.24	ADD	161	5	66.24.270	AMD	160	8
63.29.010	AMD	168	13	66.24.320	REMD	62	2
63.29.020	AMD	168	14	66.24.380	AMD	133	2
63.29.140	AMD	168	15	66.24.420	AMD	62	3
63.29.170	AMD	168	16	66.28.010	AMD	62	1
63.60.020	AMD	71	1	66.28.010	AMD	160	9
63.60.040	AMD	71	2	66.28.030	AMD	160	10
63.60.070	AMD	71	3	66.28.040	AMD	160	11
64	ADD	201	101,201	66.28.042	AMD	160	12

RCW SECTIONS AFFECTED BY 2004 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
66.28.043	AMD	160	13	70.149.070	AMD	203	2
66.28.150	AMD	160	14	70.149.080	AMD	203	3
66.28.155	AMD	160	15	71.05	ADD	166	12,16
66.28.160	AMD	160	16				18
66.28.170	AMD	160	17	71.05.040	AMD	166	2
66.28.180	AMD	160	18	71.05.390	REMD	33	2
66.28.180	AMD	269	1	71.05.390	REMD	157	5
67.08.002	AMD	149	1	71.05.390	REMD	166	6
67.08.015	AMD	149	2	71.05.445	AMD	166	4
67.16	ADD	246	1-4	71.09.350	AMD	38	14
67.16	ADD	274	1	71.32.140	AMD	39	2
67.16.010	AMD	246	5	71.34.225	AMD	166	8
67.16.102	AMD	246	6	72.09	ADD	166	17
67.16.105	AMD	246	7	72.09	ADD	167	4,8
67.16.160	AMD	274	3	72.09.015	AMD	167	6
67.16.200	AMD	274	2	72.09.070	AMD	167	1
67.28.181	AMD	79	8	72.09.100	AMD	167	2
67.28.200	AMD	79	9	72.09.100	REMD	167	3
69.43.035	AMD	52	6	72.09.111	REMD	167	7
69.43.110	AMD	52	5	72.09.460	AMD	167	5
69.43.130	AMD	52	7	72.09.585	AMD	166	5
69.50.520	AMD	276	912	73.04.110	AMD	125	1
70	ADD	47	1-4	73.04.110	AMD	223	6
70.02.030	AMD	166	19	74.04	ADD	54	3
70.38.105	AMD	261	6	74.08.025	AMD	54	5
70.41	ADD	261	2,5	74.08A.010	AMD	54	4
70.41.080	AMD	261	3	74.09	ADD	115	3
70.41.120	AMD	261	4	74.09.520	AMD	141	2
70.41.200	AMD	145	3	74.13	ADD	36	1
70.44.240	AMD	261	7	74.13	ADD	40	1-3
70.47.020	AMD	192	1	74.13	ADD	181	1,2
70.47.030	AMD	192	2	74.13	ADD	182	2
70.47.060	AMD	192	3	74.13.031	AMD	183	3
70.47.100	AMD	192	4	74.13.350	AMD	183	4
70.47.130	AMD	115	2	74.20A.030	AMD	183	5
70.48	ADD	166	14	74.39A.009	AMD	142	14
70.58.085	AMD	53	1	74.39A.020	AMD	142	15
70.62.260	AMD	162	1	74.39A.050	AMD	140	6
70.87	ADD	66	3	74.39A.090	AMD	141	3
70.87.240	AMD	66	2	74.39A.095	AMD	141	1
70.94	ADD	224	8	74.39A.270	AMD	3	1
70.94.743	AMD	213	1	74.39A.300	AMD	3	2
70.94.996	AMD	229	501	74.39A.901	AMD	3	5
70.95	ADD	101	2	74.42.055	AMD	34	1
70.95.030	AMD	101	1	74.46.431	AMD	276	913
70.96A	ADD	166	13,15	76.04.610	AMD	216	1
70.128.060	AMD	140	3	76.06	ADD	218	1,2
70.128.070	AMD	143	1	76.13	ADD	102	2
70.146.030	AMD	277	909	76.13.120	AMD	102	1
70.149.040	AMD	203	1	77.12.170	AMD	248	4

RCW SECTIONS AFFECTED BY 2004 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
77.32.070	AMD	248	3	82.02.230	AMD	153	405
77.32.430	AMD	107	2	82.04	ADD	2	9,10
77.32.520	AMD	248	1	82.04	ADD	24	2,3,8,9
77.32.555	AMD	248	2	82.04	ADD	25	1,2
77.55.100	AMD	32	2	82.04	ADD	174	1,7
77.120.005	AMD	227	1	82.04	ADD	235	2
77.120.030	AMD	227	3	82.04	ADD	241	1
79.02	ADD	199	301	82.04.040	AMD	153	402
79.02.010	AMD	199	201	82.04.050	AMD	153	407
79.02.040	AMD	199	202	82.04.050	AMD	174	3
79.02.050	AMD	199	203	82.04.190	AMD	2	8
79.02.160	AMD	199	204	82.04.190	AMD	174	4
79.02.280	AMD	199	205	82.04.240	AMD	24	4
79.02.290	AMD	199	206	82.04.270	AMD	24	5
79.02.300	AMD	199	207	82.04.280	AMD	24	6
79.02.340	AMD	199	208	82.04.290	AMD	174	2
79.10.060	AMD	199	209	82.04.324	AMD	82	1
79.10.100	AMD	199	210	82.04.422	AMD	81	1
79.11.100	AMD	199	211	82.04.4284	AMD	153	307
79.13.380	AMD	199	212	82.04.440	AMD	24	7
79.15	ADD	218	5	82.04.440	AMD	174	5
79.15.030	AMD	199	213	82.04.4452	AMD	2	2
79.15.055	AMD	199	214	82.04.460	AMD	174	6
79.15.100	AMD	177	5	82.04.530	AMD	153	410
79.15.500	AMD	218	8	82.08	ADD	8	2
79.15.510	AMD	218	6	82.08	ADD	24	10
79.15.520	AMD	218	7	82.08	ADD	153	102,104
79.19	ADD	277	913				106
79.19.030	AMD	199	215	82.08.010	AMD	153	406
79.22.300	AMD	199	216	82.08.02567	AMD	152	1
79.36.330	AMD	199	217	82.08.02805	AMD	82	2
79.36.355	AMD	199	218	82.08.0281	AMD	153	108
79.36.380	AMD	199	219	82.08.0283	AMD	153	101
79.36.390	AMD	199	220	82.08.0293	AMD	153	201
79.38.010	AMD	199	221	82.08.037	AMD	153	302
79.38.020	AMD	199	222	82.08.080	AMD	153	409
79.38.030	AMD	199	223	82.08.100	AMD	153	303
79.38.050	AMD	199	224	82.08.945	AMD	153	110
79.38.060	AMD	199	225	82.12	ADD	8	3
79.64.020	AMD	199	226	82.12	ADD	24	11
79.64.040	REMD	199	227	82.12	ADD	153	103,105
79.70	ADD	180	2,3				107
79.70.020	AMD	180	4	82.12.022	AMD	24	12
79.70.040	AMD	199	228	82.12.02567	AMD	152	2
79.90.245	AMD	276	914	82.12.02595	AMD	155	1
79.92.030	AMD	219	1	82.12.02747	AMD	82	3
79A	ADD	14	1-5	82.12.0277	REMD	153	109
80	ADD	224	1-7	82.12.037	AMD	153	304
80.36.430	AMD	254	2	82.12.070	AMD	153	305
82	ADD	254	3-11	82.12.945	AMD	153	111

RCW SECTIONS AFFECTED BY 2004 STATUTES

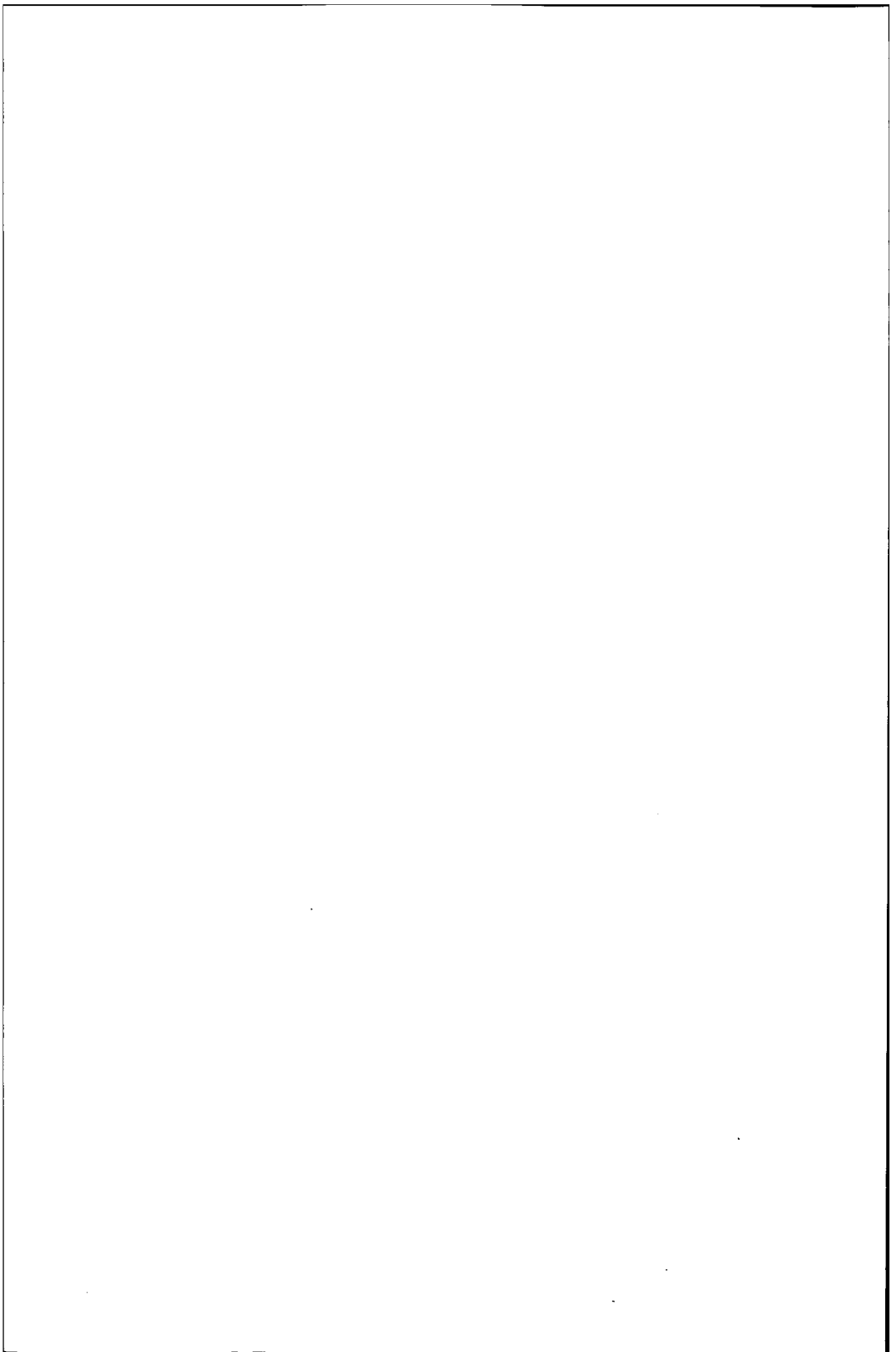
RCW		CH.	SEC.	RCW		CH.	SEC.
82.14.370	AMD	130	2	84.56.020	AMD	161	6
82.14B.150	AMD	153	309	84.56.120	AMD	79	6
82.16	ADD	24	13	84.64.080	AMD	79	7
82.16	ADD	240	1	87.03.138	AMD	215	1
82.16.0491	AMD	238	1	87.03.277	AMD	215	2
82.16.050	AMD	153	308	87.03.443	AMD	215	3
82.23A.010	AMD	203	4	87.06.030	AMD	215	4
82.32	ADD	24	14	87.06.060	AMD	215	5
82.32	ADD	76	1	87.06.110	AMD	215	6
82.32	ADD	240	2	87.56.065	AMD	165	45
82.32.033	AMD	253	1	87.56.070	REP	165	47
82.32.060	AMD	153	306	87.56.080	REP	165	47
82.32.520	AMD	153	403	87.56.085	REP	165	47
82.32.525	AMD	153	408	87.56.090	REP	165	47
82.32.530	AMD	153	404	87.56.100	AMD	165	46
82.58.050	AMD	153	401	87.56.110	REP	165	47
82.60.020	AMD	25	3	87.56.120	REP	165	47
82.60.040	AMD	25	4	87.56.130	REP	165	47
82.60.049	AMD	25	5	87.56.135	REP	165	47
82.60.050	AMD	25	6	87.56.140	REP	165	47
82.60.070	AMD	25	7	87.56.145	REP	165	47
82.63.005	AMD	2	1	87.56.150	REP	165	47
82.63.010	AMD	2	3	87.56.155	REP	165	47
82.63.020	AMD	2	4	88.46.160	AMD	226	3
82.63.030	AMD	2	5	89.08	ADD	277	901
82.63.045	AMD	2	6	89.12	ADD	195	1,2
82.63.070	AMD	2	7	90.44	ADD	195	3
84.09.030	AMD	129	19	90.48	ADD	214	1
84.33	ADD	102	3	90.48	ADD	225	2,3,5
84.33	ADD	177	6	90.48	ADD	228	1-5
84.33.035	AMD	177	1	90.56.005	AMD	226	2
84.33.040	AMD	177	3	90.56.060	AMD	226	4
84.33.051	AMD	177	2	90.56.200	AMD	226	5
84.33.078	AMD	177	4	90.56.210	AMD	226	6
84.34.020	AMD	217	1	90.80.010	AMD	10	1
84.36.010	AMD	236	1	90.80.035	AMD	10	2
84.36.035	AMD	82	4	90.80.050	AMD	10	3
84.36.381	AMD	270	1	90.80.050	AMD	104	2
84.36.383	AMD	270	2	90.80.070	AMD	10	4
84.36.595	AMD	156	1	90.80.120	AMD	10	5
84.38.030	AMD	270	3				
84.40.130	AMD	79	5				
84.52	ADD	80	1				
84.52	ADD	129	20				
84.52.010	AMD	80	3				
84.52.010	AMD	129	21				
84.52.043	AMD	80	4				
84.52.052	AMD	129	22				
84.52.0531	AMD	21	2				
84.52.069	AMD	129	23				

UNCODIFIED SESSION LAW SECTIONS AFFECTED BY 2004 STATUTES

LAWS 2003 1ST SP.S.			LAWS 2004		LAWS 2003 1ST SP.S.			LAWS 2004	
Ch.	Sec.	Action	Ch.	Sec.	Ch.	Sec.	Action	Ch.	Sec.
25	211	AMD	276	211	25	704	AMD	276	703
25	212	AMD	276	212	25	709	AMD	276	704
25	213	AMD	276	213	25	710	AMD	276	715
25	216	AMD	276	220	25	712	AMD	276	705
25	217	AMD	276	214	25	715	AMD	276	706
25	219	AMD	276	215	25	718	AMD	276	707
25	220	AMD	276	216	25	720	AMD	276	716
25	221	AMD	276	217	25	723	AMD	276	709
25	222	AMD	276	218	25	801	AMD	276	801
25	225	AMD	276	221	25	805	AMD	276	802
25	226	AMD	276	219	25	806	AMD	276	803
25	302	AMD	276	301	26		ADD	277	106
25	303	AMD	276	302	26		ADD	277	111
25	304	AMD	276	303	26		ADD	277	131
25	305	AMD	276	304	26		ADD	277	206
25	306	AMD	276	305	26		ADD	277	207
25	307	AMD	276	306	26		ADD	277	208
25	308	AMD	276	307	26		ADD	277	210
25	309	AMD	276	308	26		ADD	277	211
25	401	AMD	276	401	26		ADD	277	213
25	402	AMD	276	402	26		ADD	277	215
25	501	AMD	276	501	26		ADD	277	217
25	502	AMD	276	502	26		ADD	277	218
25	503	AMD	276	503	26		ADD	277	220
25	504	AMD	276	504	26		ADD	277	223
25	505	AMD	276	505	26		ADD	277	228
25	506	AMD	276	506	26		ADD	277	233
25	507	AMD	276	507	26		ADD	277	237
25	508	AMD	276	508	26		ADD	277	238
25	509	AMD	276	509	26		ADD	277	239
25	510	AMD	276	510	26		ADD	277	242
25	511	AMD	276	511	26		ADD	277	243
25	512	AMD	276	512	26		ADD	277	244
25	513	AMD	276	513	26		ADD	277	248
25	514	AMD	276	514	26		ADD	277	249
25	515	AMD	276	515	26		ADD	277	250
25	516	AMD	276	516	26		ADD	277	252
25	517	AMD	276	517	26		ADD	277	253
25	602	AMD	276	601	26		ADD	277	255
25	603	AMD	276	602	26		ADD	277	256
25	604	AMD	276	603	26		ADD	277	262
25	605	AMD	276	604	26		ADD	277	263
25	606	AMD	276	605	26		ADD	277	264
25	607	AMD	276	606	26		ADD	277	265
25	608	AMD	276	607	26		ADD	277	266
25	609	AMD	276	608	26		ADD	277	267
25	610	AMD	276	609	26		ADD	277	310
25	611	AMD	276	610	26	101	AMD	277	101
25	701	AMD	276	701	26	104	AMD	277	102
25	703	AMD	276	702	26	105	AMD	277	103

UNCODIFIED SESSION LAW SECTIONS AFFECTED BY 2004 STATUTES

LAWS 2003 IST SP.S.			LAWS 2004		LAWS 2003 IST SP.S.			LAWS 2004	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
26	107	AMD	277	104	26	633	AMD	277	241
26	110	AMD	277	105	26	650	AMD	277	304
26	130	AMD	277	201	26	659	AMD	277	246
26	134	AMD	277	202	26	672	AMD	277	305
26	135	AMD	277	205	26	678	AMD	277	247
26	151	AMD	277	204	26	685	AMD	277	306
26	159	AMD	277	108	26	695	AMD	277	251
26	161	AMD	277	107	26	697	AMD	277	307
26	162	AMD	277	209	26	702	AMD	277	254
26	169	AMD	277	110	26	708	AMD	277	308
26	173	AMD	277	109	26	738	AMD	277	133
26	234	AMD	277	113	26	743	AMD	277	130
26	250	AMD	277	112	26	782	AMD	277	135
26	267	AMD	277	212	26	784	AMD	277	257
26	273	AMD	277	214	26	786	AMD	277	258
26	304	AMD	277	216	26	787	AMD	277	261
26	310	AMD	277	219	26	798	AMD	277	259
26	312	AMD	277	115	26	799	AMD	277	309
26	313	AMD	277	114	26	801	AMD	277	260
26	315	AMD	277	221	26	805	AMD	277	134
26	317	AMD	277	116	26	902	AMD	277	902
26	333	AMD	277	222	26	905	AMD	277	903
26	340	AMD	277	119	26	907	AMD	277	904
26	354	AMD	277	122	26	915	AMD	277	908
26	356	AMD	277	224					
26	366	AMD	277	225					
26	367	AMD	277	120					
26	369	AMD	277	121					
26	379	AMD	277	227					
26	380	AMD	277	132					
26	389	AMD	277	231					
26	390	AMD	277	232					
26	394	AMD	277	123					
26	397	AMD	277	230					
26	398	AMD	277	124					
26	399	AMD	277	229					
26	406	AMD	277	125					
26	408	AMD	277	126					
26	412	AMD	277	234					
26	426	AMD	277	235					
26	501	AMD	277	127					
26	506	AMD	229	303					
26	508	AMD	229	305					
26	601	AMD	277	301					
26	603	AMD	277	302					
26	604	AMD	277	128					
26	606	AMD	277	236					
26	615	AMD	277	129					
26	628	AMD	277	240					
26	629	AMD	277	303					



SUBJECT INDEX OF 2004 STATUTES

	Chapter
ACCOUNTANTS AND ACCOUNTING	
Public accountancy act, revisions	159
ACTIONS AND PROCEEDINGS (See also CIVIL PROCEDURE; CRIMINAL PROCEDURE)	
Civil infraction, issuance by electronic device	43
Obesity lawsuits, civil liability reforms	139
Receivers and receivership, procedures streamlined	165
Replevin, procedures	74
ACUPUNCTURE AND ACUPUNCTURISTS	
Licensing, requirements	262
ADMINISTRATIVE PROCEDURE (See also REGULATORY REFORM)	
Agency rules, electronic filing pilot for filings sent to rules review committee . .	31
Agency rules, filing venue for challenges	30
ADULT FAMILY HOMES	
Change of ownership	140
Inspection schedule	143
Violations, licensing and investigation procedures	140
AGRICULTURE (See also FARMS; LIVESTOCK)	
Animal disease prevention, examinations and inspections of premises	251
Apple commission, membership and duties	178
Asparagus, standards	211
Beef, business and occupation tax relief	235
Cholinesterase monitoring, requirements	272
Commodity commissions, notice of public hearings findings and decisions	179
Commodity commissions, severability clauses in statutes	99
Dairy inspection program assessment, expiration date extended	132
From the heart of Washington program, successor organization	26
Growth management, agricultural land used for nonagricultural purposes	207
Growth management, land designation study	209
Outdoor burning, prevention of horticultural pests and diseases	213
Pesticides, limited private applicator and rancher private applicator licensing requirements	100
Pesticides, spray adjuvant defined	100
Seeds, seed-related business practices	212
Standards for fruits and vegetables, asparagus	211
AGRICULTURE, DEPARTMENT	
From the heart of Washington program, successor organization	26
Livestock identification system, authority to adopt rules	233
AIR POLLUTION	
Carbon dioxide emissions from fossil-fueled electrical generation	224
Outdoor burning, prevention of horticultural pests and diseases	213
AIRPORTS	
Weapons, restrictions in commercial service airports	116
ALCOHOL AND DRUG ABUSE (See also DRIVING UNDER THE INFLUENCE)	
Chemical dependency treatment, information and communication regarding offenders	166
Health insurance coverage for injuries caused by narcotic or alcohol use	112

SUBJECT INDEX OF 2004 STATUTES

	Chapter
ALCOHOLIC BEVERAGES (See also DRIVING UNDER THE INFLUENCE)	
Authorized representatives of beer and wine manufacturers and distributors	160
Caterer's endorsement, domestic wineries	62
Credit and debit card purchase, licensees	63
Distribution provisions, beer and wine price posting	269
Sales, military identification card	61
Special occasion liquor license, fairs	133
ANATOMIC GIFTS	
Blood, bone, or tissue banks, tax exemptions	82
ANIMALS (See also HORSES AND HORSE RACING; LIVESTOCK; WILD-LIFE)	
Cougar control pilot program	264
Crimes, unlawful use of a hook	220
Cruelty, penalties for juvenile offenders	117
Disease prevention, examinations and inspections of premises	251
Nonambulatory livestock, penalties for trading in	234
ATTORNEYS	
Fees, statutory rate	123
Liens for fees, taxation	73
AUDITORS AND AUDITING	
Hospitals, pilot project regarding survey and audit procedures	261
BACKGROUND CHECKS	
Study of criminal background check system	41
BAIL AND BAIL BONDS	
Recovery agents, licensing	186
BIDS AND BIDDING (See also PUBLIC WORKS)	
Joint operating agencies, minimum amount for bid requirements on material or work	189
BIOTECHNOLOGY	
Business and occupation tax credit for research and development	2
Sales and use tax deferrals for high-technology businesses	2
BIRDS (See also WILDLIFE)	
Important areas, recognition	180
BLOOD	
Blood, bone, or tissue banks, tax exemptions	82
BOARDING HOMES	
Business and occupation tax rate lowered and deduction for medicaid payments	174
Change of ownership	140
Domiciliary services	142
Quality assurance committees	144
Violations, licensing and investigation procedures	140
BOILERS	
Maintenance and repair, electrical regulations	67

SUBJECT INDEX OF 2004 STATUTES

	Chapter
BONDS	
Payment agreements	108
BRIDGES	
Toll collection	230
Toll evasion, penalties	231
BUDGET	
Capital, 2003-05 supplemental	277
Operating, 2003-05 supplemental	276
Transportation, 2003-05 supplemental	229
BUILDING CODES/PERMITS	
Local project review, permit processing timelines and reporting requirements . . .	191
Permitting process timelines	32
BUSES	
Crimes, unlawful bus conduct	118
BUSINESSES (See also NONPROFIT CORPORATIONS)	
Computer software, tax credit for companies in rural counties	25
Correctional industries, fair competition with Washington businesses	167
Electrolytic processing businesses, public utility tax exemption for electricity sales to	240
Gift certificates, unclaimed property laws	168
High-technology businesses, sales and use tax deferrals	2
Nonprofit corporations act, electronic notice and communications	265
Research and development, business and occupation tax credit	2
Small business incubator program	237
Small businesses, health care insurance	244
CHILD ABUSE	
Investigations, immunity for cooperating	37
Reporting, duty of school employee to report suspected abuse	135
CHILD CUSTODY	
Dependency hearings, Indian child welfare act and third-party custody proceed- ings	64
Dependent children, visitation with parents	146
Shelter care hearings, case conferences	147
CHILD SUPPORT	
Developmentally disabled children	183
Paternity, commencement of court proceeding to rescind	111
CHILDREN (See also JUVENILE OFFENDERS)	
Child welfare services, child fatality review	36
Child welfare services, family decision meetings	182
Deaf and hard of hearing, advisory council on early intervention	47
Dependent children, shelter care hearings and case conferences	147
Dependent children, visitation with parents	146
Sex offenses against, penalties increased	176
Speech, help kids speak license plates and account	48
Victims of crimes, parent or guardian included in definition of victim	120

SUBJECT INDEX OF 2004 STATUTES

	Chapter
CITIES AND TOWNS (See also LOCAL GOVERNMENT)	
Employee wage overpayments, recoupmnt	7
Growth management, development regulation proposed change review procedures	197
Health insurance, individual policies for retired and disabled employees	173
Internet service providers, taxation restrictions	154
Manufactured housing communities, zoning	210
Manufactured housing, ordinances discriminating against consumers' choices in housing	256
CIVIL PROCEDURE	
Attorneys' fees, statutory rate	123
Infractions, issuance by electronic device	43
Small claims judgments, penalties for failure to pay	70
Tort judgments, interest rate	185
COLLECTIVE BARGAINING	
Home care providers, funding to implement collective bargaining agreement	278
Individual home care providers, provisions	3
COLLEGES AND UNIVERSITIES (See also COMMUNITY AND TECHNICAL COLLEGES)	
Branch campuses, evaluation of mission and funding policies	57
Degree-granting institutions, accreditation requirements and exemption provisions	96
Electronically formatted instructional materials, students with disabilities	46
Military personnel called to active duty, tuition refund options	161
Part-time faculty, salary payment schedule same as full-time faculty	56
Resident student, military dependents	128
Statewide strategic plan for higher education	275
Transfer of credit policy and transfer associate degrees, work group study	55
COLUMBIA RIVER	
Public ground waters, agreements with federal Columbia basin project irrigation districts	195
COMMERCIAL VESSELS AND SHIPPING	
Ballast water discharge program, implementation date	227
COMMUNITY AND TECHNICAL COLLEGES (See also COLLEGES AND UNIVERSITIES)	
Degree-granting institutions, accreditation requirements and exemption provisions	96
Electronically formatted instructional materials, students with disabilities	46
Military personnel called to active duty, tuition refund options	161
Part-time faculty, salary payment schedule same as full-time faculty	56
Remedial education, study	59
Resident student, military dependents	128
South Seattle Community College Duwamish branch, "Hats and Boots" land parcel exchange	198
Statewide strategic plan for higher education	275
Transfer of credit policy and transfer associate degrees, work group study	55
COMMUNITY AND TECHNICAL COLLEGES, BOARD	
Displaced homemaker program, duties and powers	275
Statewide strategic plan for higher education	275
Transfer of credit policy and transfer associate degrees, work group study	55

SUBJECT INDEX OF 2004 STATUTES

	Chapter
COMMUNITY ECONOMIC REVITALIZATION BOARD	
Membership revisions	252
COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT, DEPARTMENT	
Growth management, agricultural land designation study	209
Small business incubator program	237
COMPUTERS (See also INTERNET)	
Business and occupation tax credit for research and development	2
Cyberstalking, penalties	94
Electronic waste, ecology department review and recommendations on recycling	194
Printing and publishing, sales and use tax exemptions for equipment	8
Sales and use tax deferrals for high-technology businesses	2
Software, tax credit for companies in rural counties	25
CONDOMINIUMS	
Insured warranty standards and claims against construction, committee and study	201
CONTRACTORS	
Civil liability reform	257
Condominiums, insured warranty standards and claims against construction	201
Workers' compensation, injured worker claims	257
CORRECTIONS, DEPARTMENT	
Chemical dependency and mental health treatment, communication and information sharing	166
Correctional industries, fair competition with Washington businesses	167
Correctional industries, threshold analysis and development limits	167
Telephone systems for inmates	13
COSMETOLOGY	
Licensing and practice requirements for cosmetology, barbering, manicuring, and esthetics	51
COUNSELORS AND COUNSELING	
Sex offender treatment providers, certified affiliate	38
COUNTIES (See also LOCAL GOVERNMENT)	
Cougar control pilot program	264
Employee wage overpayments, recoupment	7
Growth management, development regulation proposed change review procedures	197
Growth management, industrial land banks siting and designating process	208
Growth management, limited areas of more intensive rural development	196
Health insurance, individual policies for retired and disabled employees	173
High-technology businesses, sales and use tax deferrals	2
Levies, criminal justice funding	80
Manufactured housing communities, zoning	210
Manufactured housing, ordinances discriminating against consumers' choices in housing	256
Rural, authorized use of sales and use tax for public facilities	130
Rural, tax credit for computer software companies	25
Water conservancy boards, alternative members	10
Water conservancy boards, commissioner eligibility	104
COUNTY TREASURERS	
Technical revisions to statutes	79

SUBJECT INDEX OF 2004 STATUTES

	Chapter
COURTS (See also DISTRICT COURT; JURIES)	
Attorneys' fees, statutory rate	123
Weapons in courthouses, possession by law enforcement officers	16
CREDIT SERVICES ORGANIZATIONS	
Rental housing protection against discrimination of crime victims	17
CRIMES (See also CRIMINAL OFFENDERS; DRIVING UNDER THE INFLUENCE; SENTENCING; SEX OFFENSES AND OFFENDERS)	
Animal cruelty, penalties for juvenile offenders	117
Animal cruelty, unlawful use of a hook	220
Buses and bus stations, unlawful bus conduct	118
Criminal impersonation, penalties increased	11
Cyberstalking, penalties	94
DUI, deferred prosecution and ignition interlocks	95
Extreme fighting, regulations and penalties	149
Hook, unlawful use of	220
Identity theft, penalties	273
Impersonating a veteran or active duty member of armed forces, penalties	124
Motion pictures, unauthorized recording in exhibition facilities	119
Nonambulatory livestock, penalties for trading in	234
Pallets, stolen merchandise pallets	122
Trespass law enhancements	69
CRIMINAL JUSTICE SERVICES	
County levies to fund services	80
CRIMINAL OFFENDERS (See also SEX OFFENSES AND OFFENDERS)	
Domestic violence penalty assessment proceeds for domestic violence programs	15
Legal financial obligations, interest reduction or waiver	121
Mental health and chemical dependency treatment, information and communication	166
CRIMINAL PROCEDURE (See also SENTENCING)	
Competency restoration and involuntary medications, serious offenses	157
Domestic violence penalty assessment proceeds for domestic violence programs	15
Insane, examination requirements	9
Legal financial obligations, interest reduction or waiver	121
DEAF PERSONS	
Children, advisory council on early intervention	47
DENTAL HYGIENISTS	
Renewable temporary license	262
DEVELOPMENTALLY DISABLED	
Child support payments	183
Employment, workers' compensation incentives for employing	258
Respectful language, RCW revisions	175
DISABLED PERSONS	
Higher education instructional materials, electronic format	46
Parking, emblem for special license plates	222
Property tax, exemptions and deferrals	270
Respectful language, RCW revisions	175

SUBJECT INDEX OF 2004 STATUTES

	Chapter
DISCRIMINATION	
Foster care, homeowners' insurance	84
Manufactured housing, ordinances discriminating against consumers' choices in housing	256
Rental housing protection against discrimination of crime victims	17
DISTRICT COURT	
Judges, general election ballot	75
DNA (DEOXYRIBONUCLEIC ACID)	
Information or screening as condition for employment, unlawful	12
DOMESTIC RELATIONS (See also CHILD CUSTODY)	
Paternity, commencement of court proceeding to rescind	111
DOMESTIC VIOLENCE	
Law enforcement agency policies addressing violence committed by officers . . .	18
Offender penalty assessment proceeds for domestic violence programs	15
Victims, rental housing protection against discrimination	17
DRIVERS' LICENSES	
Biometric identifier	273
Commercial, provisions revised	187
DUI, temporary restricted licenses	95
Renewal, mail or electronic commerce	249
DRIVING UNDER THE INFLUENCE	
Admissibility of tests in court proceedings, uniform standards	68
Deferred prosecution and ignition interlocks	95
DRUGS	
Ephedrine, pseudoephedrine, and phenylpropanolamine, display and sale restrictions	52
ECOLOGY, DEPARTMENT	
Electronic waste, department review and recommendations on recycling	194
Federal reclamation projects, use attainability analysis of water bodies within . .	214
Fossil-fueled electrical generation, carbon dioxide emissions	224
Oil spill prevention and response, transfer standards and alternative measures . .	226
Oil spill prevention and response, zero spill strategy	226
Public ground waters, agreements with federal Columbia basin project irrigation districts	195
Solid waste, inert waste landfill requirements	101
Storm water general discharge permits	225
Water quality standards, credible data requirements	228
ECONOMIC DEVELOPMENT	
Correctional industries, fair competition with Washington businesses	167
Hanford area economic investment fund, provisions	77
High-technology businesses, sales and use tax deferrals	2
Industrial land banks, siting and designating process	208
Research and development, business and occupation tax credit	2
Small business incubator program	237
ELECTIONS (See also INITIATIVE AND REFERENDUM)	
Costs, proportional sharing between government entities	268
District court judges, general election ballot	75
Help America Vote Act, provisions	267

SUBJECT INDEX OF 2004 STATUTES

	Chapter
ELECTIONS (See also INITIATIVE AND REFERENDUM) — con't.	
Primaries, qualifying primary act	271
Statutes, title 29A RCW 2003 changes	266
ELECTRIC UTILITIES	
Facilities site location, division of land requirement exemption	239
Rural economic development revolving fund provisions	238
ELECTRICITY	
Boiler maintenance and repair, electrical regulations	67
Electrolytic processing businesses, public utility tax exemption for electricity sales to	240
Fossil-fueled electrical generation, carbon dioxide emissions	224
Fuel cells used to generate electricity, sales and use tax exemption	152
Renewable energy businesses, public and private initiatives to encourage projects	151
ELEVATORS	
Private residence conveyance work, licensing	66
EMERGENCY MEDICAL TECHNICIANS	
Paramedics, special license plates	35
EMERGENCY SERVICES	
Reserve officers, unlawful discharge from employment for leave related to emergency call	44
EMPLOYMENT	
Genetic information or screening as condition for employment, unlawful	12
Insurance, self-funded multiple employer welfare arrangements	260
Unlawful discharge, reserve officer taking leave related to emergency call	44
ENERGY	
Fuel cells used to generate electricity, sales and use tax exemption	152
Renewable energy businesses, public and private initiatives to encourage projects	151
ENVIRONMENT	
Public lands for recreation and habitat preservation, strategy for acquisition and disposal	263
ENVIRONMENTAL HEARINGS OFFICE	
Appeals, time period	204
ERGONOMICS	
Initiative 841, regulations repealed	1
ESTATES (See also PROBATE)	
Adjudication procedures, social and health services department	193
Wills, filing a will under seal before testator's death	72
FAIRS AND EXHIBITIONS	
Special events, promoters' requirements for vendor tax registration	253
Special occasion liquor license	133
FAMILY LIFE	
Child welfare services, family decision meetings	182
FARMS	
Animal disease prevention, examinations and inspections of premises	251

SUBJECT INDEX OF 2004 STATUTES

	Chapter
FEES	
Birth certificates, copy fee	53
Driving records, fee for insurance company review	49
Fishing, Dungeness crab recreational catch record card endorsement fee	107
Motor vehicle title fee disposition	200
Motor vehicle title transfer fee	200
Off-road vehicle permits	106
FIRE FIGHTERS	
Special license plates	35
FIRE PROTECTION	
Forest land, property assessments	216
Regional fire protection authorities	129
FIREARMS	
Commercial service airports, weapons restrictions	116
Concealed, out-of-state licenses	148
Courthouses, possession within by law enforcement officers	16
FISH AND WILDLIFE, DEPARTMENT	
Ballast water discharge program, implementation date	227
Cougar control pilot program	264
Dungeness crab, catch record card endorsement fee	107
Permitting process timelines	32
FISHING, RECREATIONAL (See also SALMON)	
Dungeness crab, catch record card endorsement fee	107
Licenses, razor clam	248
FLAGS	
Homeowner associations, display restrictions	169
FOOD AND FOOD PRODUCTS	
Obesity lawsuits, civil liability reforms	139
FOREST LAND (See also TIMBER AND TIMBER INDUSTRIES)	
Fire protection funding, property assessments	216
FOREST PRACTICES (See also TIMBER AND TIMBER INDUSTRIES)	
Forest health statewide plan, cooperative agreements and work group study	218
Small forest landowners, riparian easement program application and verification process	102
FOSTER CARE	
Blood-borne pathogens, identifying children with	40
Foster parents' rights, protections	181
Homeowners' insurance, foster parent households	84
FUELS (See OIL AND GAS)	
GIFTS	
Gift certificates, unclaimed property laws	168
GOVERNOR	
Quality award council, expiration date eliminated	245

SUBJECT INDEX OF 2004 STATUTES

	Chapter
GROWTH MANAGEMENT (See also LAND USE PLANNING)	
Agricultural land designation, study	209
Agricultural lands, nonagricultural uses	207
Comprehensive plans, development regulation proposed change review procedures	197
Comprehensive plans, limited areas of more intensive rural development	196
Comprehensive plans, urban growth areas within national historic reserves	206
Industrial land banks, siting and designating process	208
Military facilities, encroachment of land with incompatible uses	28
HANFORD	
Hanford area economic investment fund provisions	77
HARBOR AREAS	
Aquatic lands, harbor lines	219
HAZARDOUS MATERIALS	
Electronic waste, ecology department review and recommendations on recycling	194
HEALTH CARE (See also LONG-TERM CARE; MEDICAL RECORDS; NURSING HOMES)	
Basic health plan, federal health coverage tax credit program eligible enrollee	192
Community health care setting, liability for health professional volunteers	87
Insurance, coverage for injuries caused by narcotic or alcohol use	112
Insurance, individual policies for retired and disabled public employees	173
Insurance, self-funded multiple employer welfare arrangements	260
Insurance, small employers	244
Insurance, social security number restriction on insurance cards	115
HEALTH CARE FACILITIES	
Coordinated quality improvement programs, information sharing	145
HEALTH CARE PROFESSIONS	
Home care providers, funding to implement collective bargaining agreement	278
Retired primary care providers, liability insurance priority funding	184
Volunteers, liability while working at community health care setting	87
HEALTH, DEPARTMENT	
Blood-borne pathogens, identifying children with	40
Coordinated quality improvement programs, information sharing	145
Retired primary care providers, liability insurance priority funding	184
Sex offender treatment providers, certified affiliate	38
HEATING	
Heating oil tank liability protection, account administration and director's duties	203
HIGHER EDUCATION COORDINATING BOARD	
Branch campuses, performance measures	57
Degree-granting institutions, accreditation requirements and exemption provisions	96
Displaced homemaker program, duties and powers transferred	275
Roles and responsibilities reorganized and recodified	275
Statewide strategic plan for higher education	275
Transfer of credit policy and transfer associate degrees, work group study	55
HISTORIC PRESERVATION	
Growth management, urban growth areas within national historic reserves	206

SUBJECT INDEX OF 2004 STATUTES

	Chapter
HOMEOWNER ASSOCIATIONS	
Flag display restrictions	169
HORSE RACING COMMISSION	
Funds and accounts, creation and management	246
HORSES AND HORSE RACING	
Class 1 racing associations, parimutuel wagering	274
HOSPITALS	
Coordinated quality improvement programs, information sharing	145
Surveys and audits, pilot project	261
HOTELS AND MOTELS	
Transient accommodations, license application and renewal	162
HYDRAULIC PERMITS	
Permitting process timelines	32
IDENTIFICATION	
Identicards, biometric identifier	273
Identicards, renewal by mail or electronic commerce	249
Theft, penalties	273
IMMUNITY	
Child abuse investigations, immunity for cooperating	37
INDIANS	
Child dependency hearings, Indian child welfare act and third-party custody proceedings	64
Property tax exemption	236
INDIGENTS	
Mobile/manufactured home alteration permit fees, exemption	137
INITIATIVE AND REFERENDUM	
Initiative 841, ergonomics regulations repealed	1
INSANITY, CRIMINAL	
Competency restoration and involuntary medications, serious offenses	157
Examination requirements	9
INSURANCE (See also MEDICAL RECORDS; WORKERS' COMPENSATION)	
Automobile, fee for insurance company review of driving records	49
Basic health plan, federal health coverage tax credit program eligible enrollee . .	192
Domestic mutual insurers, capital calls	89
Health care, coverage for injuries caused by narcotic or alcohol use	112
Health care, individual policies for retired and disabled public employees	173
Health care, self-funded multiple employer welfare arrangements	260
Health care, small employers	244
Health care, social security number restriction on insurance cards	115
Homeowners' insurance, foster parent households	84
Investments in limited liability companies formed to develop real property	88
Life insurance and annuities, minimum nonforfeiture amount	91
Medicare, rate discounts	83
Motorcycle and motor-driven cycle, underinsured motorist coverage information .	90
Nonprofit corporations, self-insurance risk pools	255
Rates, credit based rating plans	86

SUBJECT INDEX OF 2004 STATUTES

	Chapter
INSURANCE (See also MEDICAL RECORDS; WORKERS' COMPENSATION) — con't.	
Retired primary care providers, liability insurance priority funding	184
Self-funded multiple employer welfare arrangements	260
INTERLOCAL COOPERATION	
Contracting notice requirements	190
INTERNET	
Cyberstalking, penalties	94
Service providers, local government taxation restrictions	154
INVESTMENTS	
Insurance investments in limited liability companies formed to develop real property	88
IRRIGATION	
Federal reclamation projects, use attainability analysis of water bodies within . . .	214
IRRIGATION DISTRICTS	
Delinquent assessments and administrative procedures	215
Public ground waters, agreements with federal Columbia basin project irrigation districts	195
JOINT OPERATING AGENCIES	
Materials or work, minimum amount for bid requirements	189
JUDGES	
District court, general election ballot	75
JUDGMENTS	
Legal financial obligations, interest reduction or waiver	121
Small claims, penalties for failure to pay	70
Tort judgments, interest rate	185
JURIES	
Payment provisions	127
JUVENILE COURT	
Dependency hearings, Indian child welfare act and third-party custody proceedings	64
Records, sealing	42
JUVENILE OFFENDERS	
Animal cruelty, penalties	117
Restitution provisions	120
LABOR	
Genetic information or screening as condition for employment, unlawful	12
Reserve officers, unlawful discharge from employment for leave related to emergency call	44
LABOR AND INDUSTRIES, DEPARTMENT	
Boiler maintenance and repair, electrical regulations	67
Cholinesterase monitoring, requirements	272
Elevator safety, licensing for private residence conveyance work	66
Ergonomics regulations repealed, initiative 841	1

SUBJECT INDEX OF 2004 STATUTES

	Chapter
LAND DEVELOPMENT	
Local project review, permit processing timelines and reporting requirements . . .	191
Permitting process timelines	32
LAND USE PLANNING (See also GROWTH MANAGEMENT)	
Growth management, agricultural land designation study	209
Industrial land banks, siting and designating process	208
Local project review, permit processing timelines and reporting requirements . . .	191
Manufactured housing communities, zoning	210
LANDLORD AND TENANT	
Discrimination, protection for victims of domestic violence, assault, and stalking	17
Landlord trust funds, financial institutions	136
LAW ENFORCEMENT (See also STATE PATROL)	
Civil infractions, issuance by electronic device	43
Domestic violence, agency policies addressing violence committed by officers . .	18
Memorial license plate	221
LAW ENFORCEMENT OFFICERS (See also STATE PATROL)	
Domestic violence, agency policies addressing violence committed by officers . .	18
Memorial license plate	221
Reserve officers, unlawful discharge from employment for leave related to emergency call	44
Weapons in courthouses, possession	16
LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM (See also RETIREMENT AND PENSIONS)	
Disabled in line of duty, benefit refund and retirement allowance	4
Survivor benefits, officers who die in line of duty	5
LICENSE PLATES	
Fire fighters and paramedics, special license plates	35
Help kids speak license plates	48
Law enforcement memorial license plate	221
Special license plates, disabled parking emblems	222
Special license plates, program provisions revised	222
Transfer of retained plates	223
Veterans, eligibility for regular or special veterans plates and fee exemptions . .	125
LICENSING, DEPARTMENT	
Bail bond recovery agents, licensing	186
Drivers' licenses, biometric identifier system	273
Drivers' licenses, renewal by mail or electronic commerce	249
Security guards, training requirements	50
Transient accommodations, license application and renewal	162
LIENS	
Attorneys' fees, taxation	73
LIMITATIONS OF ACTIONS	
Construction projects, injured worker industrial insurance claims	257
LIMITED LIABILITY COMPANIES	
Insurance investments in companies formed to develop real property	88

SUBJECT INDEX OF 2004 STATUTES

	Chapter
LIQUOR CONTROL BOARD	
Distribution provisions, beer and wine price posting	269
LIVESTOCK	
Beef, business and occupation tax relief	235
Disease prevention, examinations and inspections of premises	251
Identification system, authority to adopt rules	233
Nonambulatory, penalties for trading in	234
LOCAL GOVERNMENT (See also CITIES AND TOWNS; COUNTIES)	
Amusement and recreation services, use tax exemption	155
Health insurance, individual policies for retired and disabled employees	173
Local project review, permit processing timelines and reporting requirements ...	191
LONG-TERM CARE (See also NURSING HOMES)	
Home care providers, funding to implement collective bargaining agreement ...	278
In-home services, oversight and service options	141
Individual home care providers, collective bargaining provisions	3
LONGSHORE AND HARBOR WORKERS	
Workers' compensation insurance commercial market policies, study	164
MANUFACTURED HOUSING	
Alteration permit fees, exemption for indigent permit applications	137
Communities, zoning	210
Discrimination against consumers' choices in housing, city and county ordinances	256
MANUFACTURING	
Aluminum smelters, tax relief	24
Electronic waste, ecology department review and recommendations on recycling	194
MEAT	
Beef, business and occupation tax relief	235
Livestock identification and meat products labeling, authority to adopt rules ...	233
MEDICAL RECORDS	
Coordinated quality improvement programs, information sharing	145
Mental health patients, release of records for purpose of restoring hospital cemeteries	33
MEDICARE	
Rate discounts	83
MENTAL HEALTH	
Advance directives, technical and clarifying revisions	39
Patient records, release for purpose of restoring hospital cemeteries	33
MENTAL HOSPITALS	
Patient records, release for purpose of restoring hospital cemeteries	33
MENTALLY ILL PERSONS (See also SEX OFFENSES AND OFFENDERS)	
Offenders, information and communication regarding services and treatment ...	166
Respectful language, RCW revisions	175
Serious criminal offenses, competency restoration and involuntary medications ...	157
MILITARY (See also VETERANS)	
Alcoholic beverages, military identification card for purchase	61
Facilities, encroachment of land with incompatible uses	28
Higher education residency status for dependents	128

SUBJECT INDEX OF 2004 STATUTES

	Chapter
MILITARY (See also VETERANS) — con't.	
Higher education students called to active duty, tuition refund options	161
Impersonating a veteran or active duty member of armed forces, penalties	124
Lands, encroachment of land with incompatible uses	28
MOBILE HOMES (See also MANUFACTURED HOUSING)	
Alteration permit fees, exemption for indigent permit applications	137
MOTION PICTURES	
Unauthorized recording, exhibition facilities	119
MOTOR VEHICLES (See also DRIVERS' LICENSES; DRIVING UNDER THE INFLUENCE; LICENSE PLATES; MOTORCYCLES; RECREATIONAL VEHICLES; TRUCKS AND TRUCKING)	
Dealers, business and occupation tax exemption for wholesale sales of new vehicles	81
Driving records, fee for insurance company review	49
Impound, damages for unauthorized	250
Property tax exemptions, vehicles carrying exempt licenses	156
Rebuilt vehicles, state patrol inspections	188
Salvage vehicles, state patrol inspections	188
Title fee disposition	200
Titles, transfer fee	200
MOTORCYCLES	
Insurance, underinsured motorist coverage information	90
Motorcycle awareness information included in driver training courses	126
NATIONAL GUARD	
College and university tuition refund options	161
NATURAL RESOURCES, DEPARTMENT	
Birds, recognition of important areas	180
Common school trust lands, "Hats and Boots" parcel exchange	198
Public lands definitions clarified	199
Voluntary contribution solicitation for public use and recreation facilities	103
NONPROFIT CORPORATIONS	
Member committees	98
Nonprofit corporations act, electronic notice and communications	265
Self-insurance risk pools	255
NONPROFIT ORGANIZATIONS	
Amusement and recreation services, use tax exemption	155
Salmon restoration, business and occupation tax deduction	241
NURSES	
Practical nurses, licensing requirements	262
Registered nurses, licensing requirements	262
Workers' compensation, nurse practitioners authorized to examine and treat injured workers	65
NURSING HOMES (See also LONG-TERM CARE)	
Admission procedures, discrimination	34
Quality assurance committees	144

SUBJECT INDEX OF 2004 STATUTES

	Chapter
OIL AND GAS	
Heating oil tank liability protection, account administration and director's duties	203
Spill prevention and response, transfer standards and alternative measures	226
Spill prevention and response, zero spill strategy	226
OPTICIANS	
Licensing, requirements	262
OUTDOOR RECREATION	
Off-road and nonhighway vehicles, provisions	105
Public lands for recreation and habitat preservation, strategy for acquisition and disposal	263
PARENTS AND PARENTING	
Child welfare services, family decision meetings	182
Dependent children, visitation with parents	146
Shelter care hearings, case conferences	147
PARKING	
Disabled, emblem for special license plates	222
PARKS AND RECREATION COMMISSION	
State parks centennial committee	14
PATERNITY	
Court proceeding to rescind, commencement of	111
PERSONAL PROPERTY	
Gift certificates, unclaimed property laws	168
Replevin, procedures	74
PERSONALITY RIGHTS	
Exemption from restrictions	71
PEST CONTROL	
Outdoor burning, prevention of horticultural pests and diseases	213
PESTICIDES	
Application, limited private applicator and rancher private applicator licensing requirements	100
Cholinesterase monitoring, requirements	272
Spray adjuvant defined	100
PHARMACIES AND PHARMACISTS	
Ephedrine, pseudoephedrine, and phenylpropanolamine, display and sale restrictions	52
PHYSICIAN ASSISTANTS	
Workers' compensation application, authority to execute certificate	163
PLATS	
Electric utility facilities site location, division of land requirement exemption . . .	239
POLLUTION CONTROL HEARINGS BOARD	
Appeals, time period	204
POLLUTION LIABILITY INSURANCE AGENCY	
Heating oil tank liability protection, account administration and director's duties	203

SUBJECT INDEX OF 2004 STATUTES

	Chapter
PORT DISTRICTS	
Consulting services, compensation	78
PRINTERS AND PRINTING	
Sales and use tax exemptions for computer equipment	8
PRISONS AND PRISONERS	
Correctional industries, threshold analysis and development limits	167
Legal financial obligations, interest reduction or waiver	121
Telephone systems for inmates	13
PRIVACY	
Inmates, telephone systems	13
PROBATE (See also ESTATES)	
Estate adjudication procedures, social and health services department	193
Mental health advance directives, technical and clarifying revisions	39
Wills, filing a will under seal before testator's death	72
PSYCHOLOGISTS	
Licensing, requirements	262
PUBLIC ASSISTANCE	
Child welfare services, family decision meetings	182
Food stamps, simplified reporting	54
TANF, transitional food stamps	54
PUBLIC DEBTS	
Payment agreements	108
PUBLIC EMPLOYEES' RETIREMENT SYSTEM (See also RETIREMENT AND PENSIONS)	
Plan 1, minimum monthly benefit	85
Plan 2 and 3, purchase of additional service credit	172
Public safety employees' retirement system	242
PUBLIC FUNDS AND ACCOUNTS	
Biometric security account	273
Financial literacy public-private partnership account	247
Future teachers conditional scholarship account	58
Hanford area economic investment fund provisions	77
Help kids speak account	48
Horse racing commission funds and accounts, creation and management	246
Small business incubator account	237
PUBLIC HEALTH	
Obesity lawsuits, civil liability reforms	139
PUBLIC INSTRUCTION, SUPERINTENDENT	
Charter schools	22
Financial literacy public-private partnership task force and account	247
Food and beverages sold on campuses, advisory committee to develop model policy	138
Physical activity and nutrition, advisory committee to develop model policy ...	138
School employee conduct investigations	134
WASL, revisions	19

SUBJECT INDEX OF 2004 STATUTES

	Chapter
PUBLIC LANDS	
Aquatic lands, harbor lines	219
Bird areas, recognition	180
Common school trust lands, "Hats and Boots" parcel exchange	198
Definitions clarified	199
Recreation and habitat preservation, strategy for acquisition and disposal	263
PUBLIC LANDS, COMMISSIONER	
Forest health statewide plan, cooperative agreements and work group study	218
PUBLIC OFFICERS AND EMPLOYEES	
Safety employees' retirement system	242
PUBLIC POLICY, INSTITUTE	
Women's history center, proposal for establishment of	150
PUBLIC TRANSIT	
Crimes, unlawful bus conduct	118
PUBLIC UTILITY DISTRICTS	
Boundary revisions, voting precinct within a county that has a federal nuclear reservation	113
Telecommunications, wholesale services	158
PUBLIC WORKS	
Interlocal cooperation, contracting notice requirements	190
Joint operating agencies, minimum amount for bid requirements on material or work	189
Projects, authorization and funding	27
PUBLIC WORKS BOARD	
Projects, authorization and funding	27
PUBLISHERS AND PUBLICATIONS	
Sales and use tax exemptions for computer equipment	8
REAL ESTATE AND REAL PROPERTY (See also TAXES - PROPERTY TAX)	
Condominiums, insured warranty standards and claims against construction	201
Indian tribes, property tax exemption	236
Sex offender information, home buyer notice	114
RECEIVERS AND RECEIVERSHIP	
Procedures streamlined	165
RECORDS	
Juvenile justice, sealing	42
RECREATION (See also OUTDOOR RECREATION)	
Amusement and recreation services, use tax exemption	155
Funding, voluntary contribution solicitation for public use and recreation facilities	103
RECREATIONAL VEHICLES	
Off-road and nonhighway vehicles, provisions	105
Off-road vehicle permit fees	106
REGULATORY REFORM	
Local project review, permit processing timelines and reporting requirements	191
Permitting process timelines	32

SUBJECT INDEX OF 2004 STATUTES

	Chapter
RENT	
Discrimination, protection for victims of domestic violence, assault, and stalking	17
RESEARCH AND DEVELOPMENT	
Business and occupation tax credit for technology research and development . . .	2
Sales and use tax deferrals for high-technology businesses	2
RESPIRATORY CARE PRACTITIONERS	
Licensing, requirements	262
RETIREMENT AND PENSIONS (See also LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM; PUBLIC EMPLOYEES' RETIREMENT SYSTEM)	
Asset smooth corridor for actuarial valuations	93
Public safety employees' retirement system	242
REVENUE, DEPARTMENT	
Streamlined sales and use tax agreements, technical correction to portions implemented	153
Telephone assistance program, tax collection responsibility transferred to revenue department	254
REVISED CODE OF WASHINGTON	
Elections, title 29A RCW 2003 changes	266
Individuals with disabilities, respectful language revisions	175
Unemployment compensation, technical corrections to domestic violence refer-ences	110
ROADS AND HIGHWAYS	
Highways of statewide significance, transportation commission resolution 660 . .	232
Personal wireless facilities, use of highway rights of way	131
State route number 99, description	205
Toll collection	230
Toll evasion, penalties	231
RURAL DEVELOPMENT	
Computer software, tax credit for companies in rural counties	25
County sales and use tax for public facilities, authorized use	130
Electric utilities, rural economic development revolving fund provisions	238
Growth management, limited areas of more intensive rural development	196
SALMON (See also FISH AND WILDLIFE, DEPARTMENT)	
Public lands for recreation and habitat preservation, strategy for acquisition and disposal	263
Restoration, business and occupation tax deduction for nonprofit organizations . .	241
SCHOLARSHIPS	
Prospective teachers, conditional scholarships for enrollment in certain programs	58
SCHOOLS AND SCHOOL DISTRICTS	
Academic achievement and accountability, WASL revisions	19
Academic achievement and accountability, assessments and requirements	19
Charter schools	22
Child abuse reporting, duty of employees to report suspected abuse	135
District property, disposition of funds received from rental, lease, or sale	45
Drivers' education, information on motorcycle awareness	126
Employee background checks, misconduct information from current or previous employer	29

SUBJECT INDEX OF 2004 STATUTES

	Chapter
SCHOOLS AND SCHOOL DISTRICTS — con't.	
Employees' retirement system, purchase of additional service credit	172
Employees, conduct investigations	134
Financial literacy public-private partnership task force and account	247
Food and beverages sold on campus, advisory committee to develop model policy	138
Learning assistance program	20
Levies, base calculations	21
Lunch programs, free or reduced-price	54
Physical activity and nutrition, advisory committee to develop model policy	138
Postsecondary remedial education, study	59
Summer food service program	54
Superintendents, credential preparation programs	60
Teacher cottages, funding provisions	6
Teachers, residency teacher certification partnership programs	23
WASL, revisions	19
SECRETARY OF STATE (See also ELECTIONS)	
Elections, title 29A RCW 2003 changes	266
Nonprofit corporations act, electronic notice and communications	265
SECURITY GUARDS AND FIRMS	
Training requirements, postassignment or on-the-job	50
SENIOR CITIZENS	
Property tax, exemptions and deferrals	270
SENTENCING (See also CRIMINAL PROCEDURE)	
Animal cruelty, unlawful use of a hook	220
Criminal impersonation, penalties increased	11
Cyberstalking, penalties	94
DUI, deferred prosecution and ignition interlocks	95
Hook, unlawful use of	220
Identity theft, penalties	273
Impersonating a veteran or active duty member of armed forces, penalties	124
Motion pictures, unauthorized recording in exhibition facilities	119
Nonambulatory livestock, penalties for trading in	234
Pallets, stolen merchandise pallets	122
Sex offenses against children, penalties increased	176
SEX OFFENSES AND OFFENDERS	
Children, penalties increased for crimes against	176
Sex offender information, home buyer notice	114
Treatment providers, certified affiliate	38
SHERIFFS AND POLICE CHIEFS, ASSOCIATION OF	
Domestic violence, agency policies addressing violence committed by officers	18
SMALL CLAIMS COURT	
Failure to pay judgments, penalties	70
SMELTING	
Aluminum smelters, tax relief	24
SOCIAL AND HEALTH SERVICES, DEPARTMENT	
Adult family home inspection schedule	143
Child welfare services, child fatality review	36
Child welfare services, family decision meetings	182

SUBJECT INDEX OF 2004 STATUTES

	Chapter
SOCIAL AND HEALTH SERVICES, DEPARTMENT — con't.	
Deaf and hard of hearing, advisory council on early intervention	47
Dependent children, visitation with parents	146
Developmentally disabled, child support payments	183
Estate adjudication procedures	193
Foster care, identifying children with blood-borne pathogens	40
Foster care, protection of foster parents' rights	181
Home care providers, funding to implement collective bargaining agreement . . .	278
In-home long-term care services, oversight and service options	141
Long-term care services, collective bargaining for individual home care providers	3
Mental health services and chemical dependency treatment for offenders, training for agencies	166
Shelter care hearings, case conferences	147
Telephone assistance program, tax collection responsibility transferred to revenue department	254
SOCIAL SECURITY	
Numbers, health insurance card restriction	115
SOLID WASTE	
Inert waste landfills, requirements	101
SPEECH IMPAIRED PERSONS	
Help kids speak program	48
SPORTS	
Extreme fighting, regulations and penalties	149
Special events, promoters' requirements for vendor tax registration	253
STATE AGENCIES AND DEPARTMENTS	
Local project review, permit processing timelines and reporting requirements . . .	191
Permitting process timelines	32
Rules, electronic filing pilot for filings sent to rules review committee	31
Rules, filing venue for challenges	30
STATE GOVERNMENT	
Amusement and recreation services, use tax exemption	155
STATE PARKS	
Centennial committee	14
STATE PATROL	
Retirement system, survivor benefits for officers who die in line of duty	170
Retirement system, survivor benefits for officers who die in line of duty	171
STORM WATER MANAGEMENT AND CONTROL	
General discharge permits	225
STUDIES	
Charter schools	22
Condominiums, claims against construction	201
Criminal background checks, study of system	41
Forest health, work group to study	218
Growth management, agricultural land designation	209
Higher education remedial education	59
Women's history center, proposal for establishment of	150
Workers' compensation insurance, commercial market policies	164

SUBJECT INDEX OF 2004 STATUTES

	Chapter
SUBDIVISIONS	
Electric utility facilities site location, division of land requirement exemption . . .	239
TAXES - BUSINESS AND OCCUPATION TAX	
Aluminum smelters, tax relief	24
Beef, tax relief	235
Blood, bone, or tissue banks, tax exemptions	82
Boarding homes, tax rate lowered and deduction for medicaid payments	174
Computer software, tax credit for companies in rural counties	25
Motor vehicle dealers, tax exemption for wholesale sales of new vehicles	81
Research and development, tax credit	2
Salmon restoration, tax deduction for nonprofit organizations	241
TAXES - EXCISE TAX	
Special events, promoters' requirements for vendor tax registration	253
TAXES - GENERAL	
Telecommunications bundled services, tax administration	76
TAXES - PROPERTY TAX	
Blood, bone, or tissue banks, tax exemptions	82
County levies, criminal justice funding	80
Exemptions, vehicles carrying exempt licenses	156
Indian tribes, exemption	236
School district levies, base calculations	21
Senior citizens and persons retired due to physical disability, exemptions and deferrals	270
Timber lands, incidental uses	217
Timber on publicly owned land, stumpage values	177
TAXES - PUBLIC UTILITY TAX	
Aluminum smelters, tax relief	24
Electric utilities, rural economic development revolving fund provisions	238
Electrolytic processing businesses, exemption for electricity sales to	240
TAXES - SALES TAX	
Aluminum smelters, tax relief	24
Blood, bone, or tissue banks, tax exemptions	82
Computer equipment used for printing or publishing, tax exemption	8
Fuel cells used to generate electricity, tax exemption	152
High-technology businesses, tax deferrals	2
Rural counties, authorized use of sales and use tax for public facilities	130
Streamlined sales and use tax agreements, technical correction to portions implemented	153
TAXES - USE TAX	
Aluminum smelters, tax relief	24
Amusement and recreation services, tax exemption	155
Blood, bone, or tissue banks, tax exemptions	82
Computer equipment used for printing or publishing, tax exemption	8
Fuel cells used to generate electricity, tax exemption	152
High-technology businesses, tax deferrals	2
Rural counties, authorized use of sales and use tax for public facilities	130
Streamlined sales and use tax agreements, technical correction to portions implemented	153

SUBJECT INDEX OF 2004 STATUTES

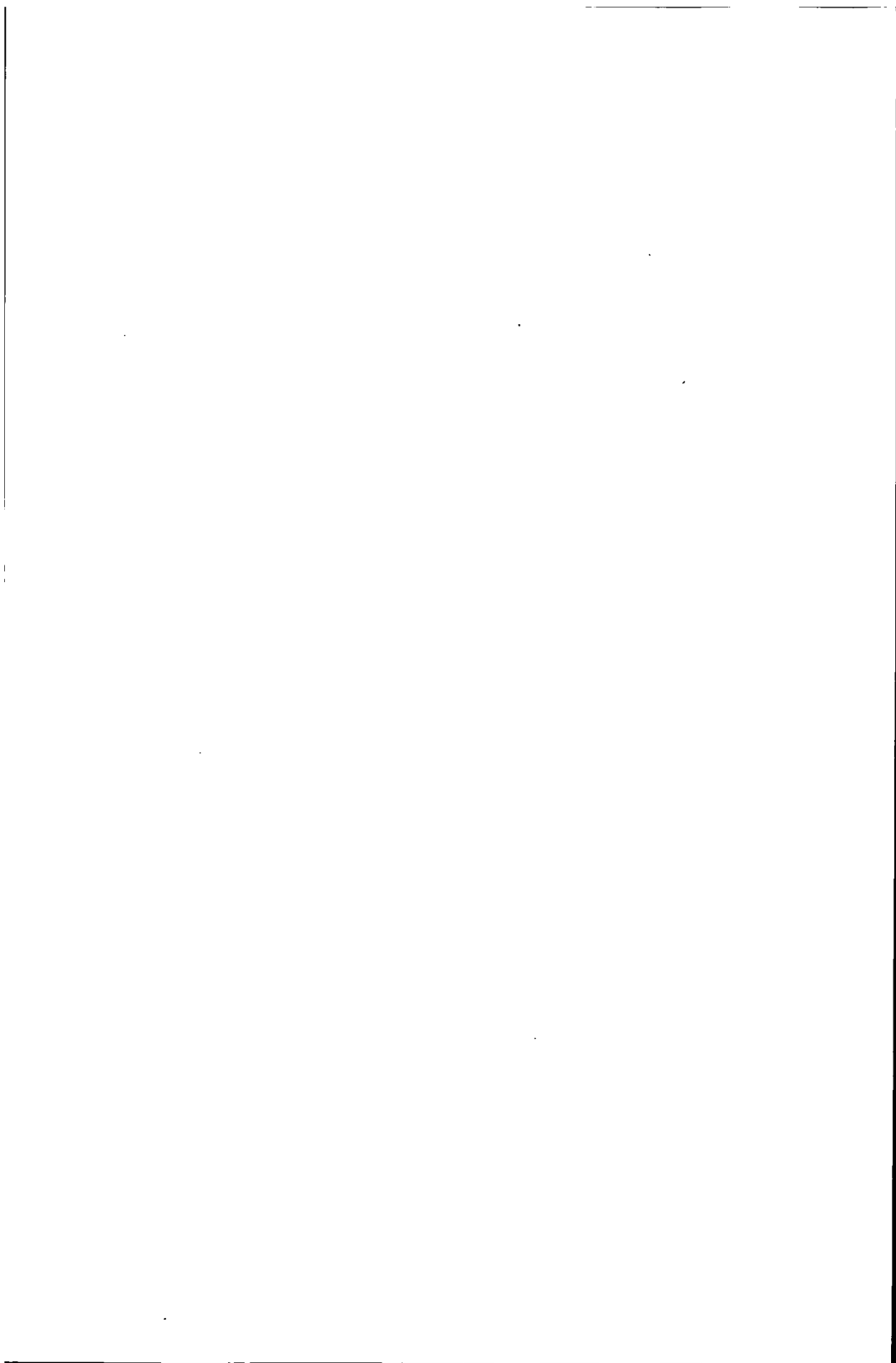
	Chapter
TEACHERS (See also SCHOOLS AND SCHOOL DISTRICTS)	
Background checks, misconduct information from current or previous employer	29
Cottages, funding provisions	6
Prospective teachers, conditional scholarships for enrollment in certain programs	58
Residency teacher certification partnership programs	23
Retirement system, plan I minimum monthly benefit	85
TECHNOLOGY	
Business and occupation tax credit for research and development	2
Computer software, tax credit for companies in rural counties	25
Renewable energy businesses, public and private initiatives to encourage projects	151
Sales and use tax deferrals for high-technology businesses	2
TELECOMMUNICATIONS	
Bundled services, tax administration	76
Personal wireless facilities, use of highway rights of way	131
Public utility districts, wholesale services	158
TELEPHONES	
Assistance program, tax collection responsibility transferred to revenue department	254
Inmates, systems	13
TIMBER AND TIMBER INDUSTRIES (See also FOREST PRACTICES)	
Property taxes, portion of land designated for incidental uses	217
Small forest landowners, riparian easement program application and verification process	102
Taxation of timber on publicly owned land, stumpage values	177
TORTS	
Judgments, interest rate	185
TOW TRUCKS	
Impound, damages for unauthorized	250
Oversize towing operations, annual permit	109
TOXICOLOGIST	
DUI tests, uniform standards for admissibility in court proceedings	68
TRAFFIC OFFENSES (See also DRIVING UNDER THE INFLUENCE)	
Issuance by electronic device	43
Toll evasion, penalties	231
TRANSPORTATION, DEPARTMENT	
Budget, 2003-05 supplemental	229
Personal wireless facilities, use of highway rights of way	131
Toll collection	230
TRESPASS	
Violation enhancements	69
TRUCKS AND TRUCKING (See also MOTOR VEHICLES; TOW TRUCKS)	
Tow trucks, annual permit for oversize towing operations	109
UNCLAIMED PROPERTY	
Gift certificates, regulations	168

SUBJECT INDEX OF 2004 STATUTES

	Chapter
UNEMPLOYMENT COMPENSATION	
Delinquency assessments for successor employers	97
Domestic violence RCW references, technical corrections	110
VETERANS	
Impersonating a veteran or active duty member of armed forces, penalties	124
License plates, eligibility for regular or special veterans plates and fee exemptions	125
VICTIMS OF CRIMES	
Juvenile offenses, restitution provisions	120
Juvenile victims, parent or guardian included in definition of victim	120
Rental housing protection against discrimination	17
VIOLENCE PREVENTION	
Extreme fighting, regulations and penalties	149
VITAL RECORDS	
Birth certificates, copy fee	53
VOLUNTEERS	
Health professionals, liability while working at community health care setting	87
WAGES AND HOURS	
County and city employee wage overpayments, recoupment	7
WATER	
Ballast water discharge program, implementation date	227
Conservancy boards, alternative members	10
Conservancy boards, commissioner eligibility	104
WATER POLLUTION	
Federal reclamation projects, use attainability analysis of water bodies within	214
Storm water general discharge permits	225
Water quality standards, department of ecology required to use credible data	228
WATER RIGHTS	
Conservancy boards, alternative members	10
Conservancy boards, commissioner eligibility	104
Public ground waters, agreements with federal Columbia basin project irrigation districts	195
WATER-SEWER DISTRICTS	
Temporary facilities, connection charges	202
WILDLIFE	
Birds, recognition of important areas	180
Cougar control pilot program	264
Crimes, unlawful use of a hook	220
Public lands for recreation and habitat preservation, strategy for acquisition and disposal	263
WILLS (See PROBATE)	
WOMEN	
History center, proposal for establishment of	150

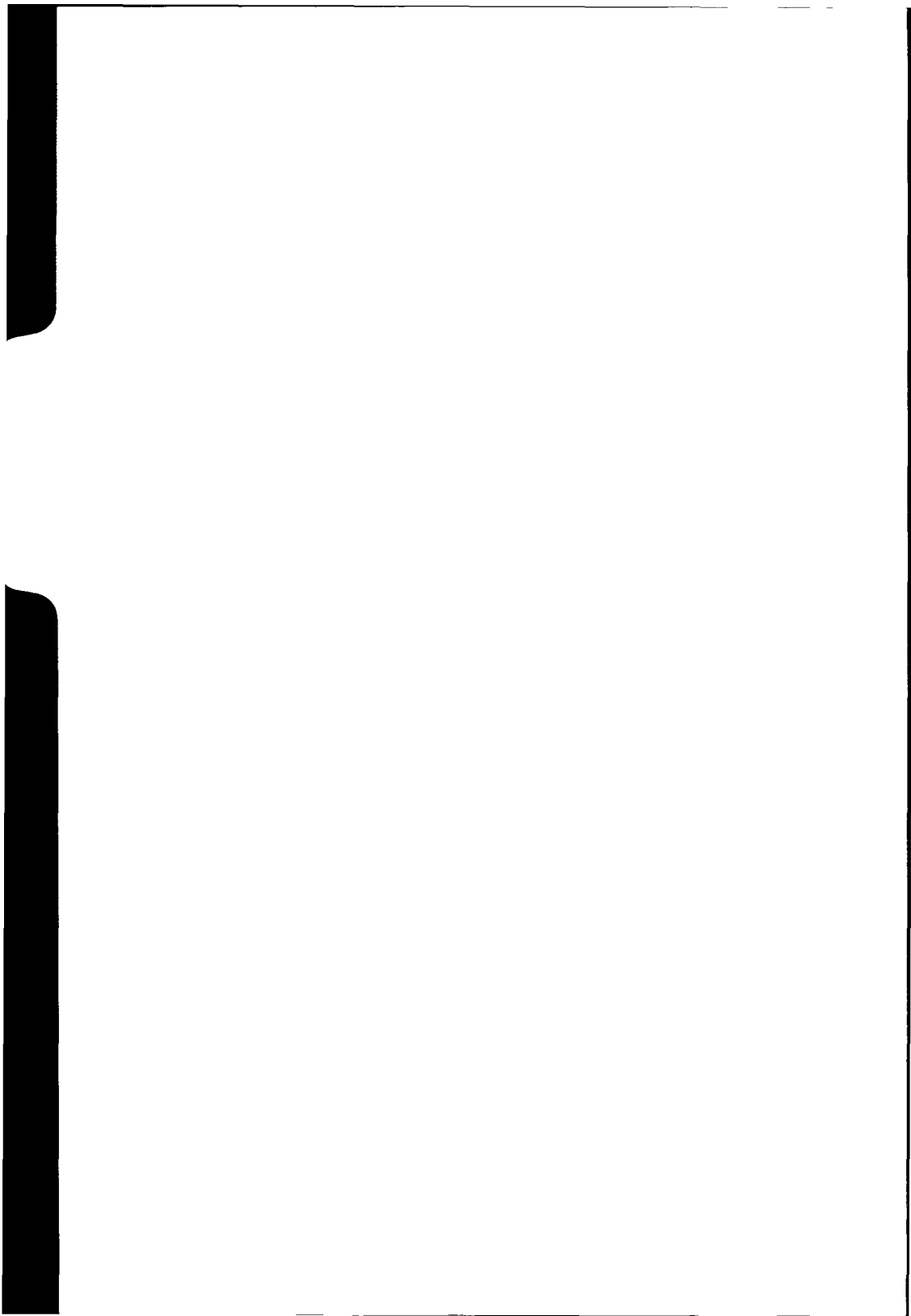
SUBJECT INDEX OF 2004 STATUTES

	Chapter
WORKERS' COMPENSATION	
Application for compensation, physician assistants authorized to execute certificate	163
Commercial market policies, study	164
Construction projects, injured worker claims	257
Contractors, liability for subcontractors	243
Developmentally disabled, incentives for employing	258
Health care providers' services, petition to suspend	259
Health care providers, collection of overpayments and penalties	243
Liability for payment of premiums upon termination of company	243
Longshore and harbor workers, study of commercial market policies	164
Nurse practitioners, authority to examine and treat injured workers	65
Social security offset provisions and federal social security retirement age	92
Willful misrepresentation, definition and penalties	243
ZONING (See also LAND USE PLANNING)	
Manufactured housing communities	210



**HISTORY OF INITIATIVES,
REFERENDUMS, AND
CONSTITUTIONAL AMENDMENTS**
(Supplementing 2002 History)

Initiatives, history	<i>Page</i>
Initiatives to the People	1587
Initiatives to the Legislature	1601
Referendum Measures	1607
Referendum Bills	1608
Constitutional Amendments	
History of amendments adopted since statehood	1609



HISTORY OF STATE MEASURES FILED WITH THE SECRETARY OF STATE

INITIATIVES TO THE PEOPLE

(SUPPLEMENTING 2002 LAWS, PAGE 2315)

- *INITIATIVE MEASURE NO. 747.** (Statement of the Subject: Initiative Measure No. 747 concerns limiting property tax increases. Concise Description: This measure would require state and local governments to limit property tax levy increases to 1% per year, unless an increase greater than this limit is approved by the voters at an election.) Filed on January 8, 2001 by Tim Eyman of Mukilteo, Leo Fagan of Spokane, Ray Benham of Kennewick, and M. J. Fagan of Spokane. 290,704 signatures were filed and found sufficient. This measure was submitted to the voters at the November 6, 2001 general election and approved by the following vote: For - 826,258 Against - 609,266.
- INITIATIVE MEASURE NO. 748.** (Statement of the Subject: Initiative Measure No. 748 concerns rent increases on residential rental structures or sites. Concise Description: This measure would allow cities and counties to regulate rent increases on residential buildings by requiring notice of increases, prohibiting retaliatory increases, or prohibiting increases on property not meeting health codes.) Filed on January 10, 2001 by Gregory Gadow of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 749.** (Statement of the Subject: Initiative Measure No. 749 concerns the manner electing certain state and federal officers. Concise Description: This measure would provide that United States Senators and most statewide elected officers would be elected by a system of electoral votes, which would be distributed among the counties, based on county population.) Filed on January 9, 2001 by Richard Newby of College Place. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 750.** (Statement of the Subject: Initiative Measure No. 750 concerns the manner in which United States presidential electors are awarded. Concise Description: This measure would provide that presidential electors would be awarded in proportion to the number of counties in the state in which each candidate has received a majority of the votes.) Filed on January 9, 2001 by Richard Newby of College Place. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 751.** (Statement of the Subject: Initiative Measure No. 751 concerns the primary system for election of public officers. Concise Description: This measure would adopt a blanket primary allowing voters to choose among official party candidates, party-affiliated candidates, and independent candidates for each partisan office. If courts invalidated this system, an alternative is specified.) Filed on January 8, 2001 by Terry Hunt of Coulee City. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 752.** (Statement of the Subject: Initiative Measure No. 752 concerns the state expenditure limit. Concise Description: this measure would amend the state's expenditure limit. Separate limits would apply to all state accounts that are subject to allotment control, with certain exceptions. Procedures would be established for adjusting these limits.) Filed on January 16, 2001 by Chad Taylor of Chehalis. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 753.** (Statement of the Subject: Initiative Measure No. 753 concerns lands managed by the department of natural resources. Concise Description: This measure would require the department of natural resources to open lands, roads, and gates managed

INITIATIVES TO THE PEOPLE

by the department to all people for all uses, including travel by foot, horseback and motor vehicle.) Filed on January 23, 2001 by Ivan Rolig of Bremerton. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 754. (Statement of the Subject: Initiative Measure No. 754 concerns laws applied to "flesh and blood people". Concise Description: This measure would provide that the Revised Code of Washington, the Washington Administrative Code, and all municipal ordinances are not applicable to "flesh and blood people".) Filed on January 8, 2001 by Kurt Weinreich of Olympia. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 755. (Statement of the Subject: Initiative Measure No. 755 concerns the public disclosure act. Concise Description: This measure would direct courts to impose a one hundred dollar per day penalty when an agency acting in bad faith denies a person inspection or copying of a public record.) Filed on January 8, 2001 by Kurt Weinreich of Olympia. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 756. (Statement of the Subject: Initiative Measure No. 756 concerns limiting federal jurisdiction. Concise Description: This measure would purport to limit federal laws to the District of Columbia, territories such as Guam, and navigable waters, and provide that federal laws do not apply within the State of Washington.) Filed on January 8, 2001 by Kurt Weinreich of Olympia. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 757. (Statement of the Subject: Initiative Measure No. 757 concerns the internal revenue service. Concise Description: This measure would purport to require the internal revenue service to comply with state and federal laws and constitutional provisions, including proceeding in state superior court prior to executing federal tax liens.) Filed on January 8, 2001 by Kurt Weinreich of Olympia. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 758. (Statement of the Subject: Initiative Measure No. 758 contracts creating private monopolies. Concise Description: This measure would declare all contracts creating private monopolies of public resources to be void and unconstitutional, and allow for a thousand dollar per day fine against persons attempting to enforce such contracts.) Filed on January 8, 2001 by Kurt Weinreich of Olympia. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 759. (Statement of the Subject: Initiative Measure No. 759 concerns the state bar association and attorney licensing. Concise Description: This measure would declare the state bar association unconstitutional, provide that the department of licensing would test and license attorneys, and alter laws concerning attorney discipline.) Filed on January 8, 2001 by Kurt Weinreich of Olympia. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 760. (Statement of the Subject: Initiative Measure No. 760 concerns causes of action for violations of state civil rights. Concise Description: This measure would authorize lawsuits and attorney fees against any person who, acting under color of state or local law, violates rights secured by the state Constitution or by any state laws.) Filed on January 8, 2001 by Richard Shepard of Tacoma. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 761. (Statement of the Subject: Initiative Measure No. 761 concerns liability for restricting the use of private real property. Concise Description: This measure would require state and local governments to pay compensation and attorney fees if a law or government act restricted the use of privately owned real property and reduced its market value.) Filed on January 8, 2001 by Richard Shepard of Tacoma. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 762. (Statement of the Subject: Initiative Measure No. 762 concerns restricting the civil forfeiture of property. Concise Description: This measure would

INITIATIVES TO THE PEOPLE

generally prohibit the forfeiture of property (other than “contraband”) unless the owner had been convicted of a crime and the property was clearly instrumental in committing or facilitating the crime.) Filed on January 8, 2001 by Richard Shepard of Tacoma. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 763. (Statement of the Subject: Initiative Measure No. 763 concerns preservation of the blanket primary. Concise Description: This measure would declare that the people oppose action by the political parties to replace the blanket primary, and would nullify any legislative act abolishing the blanket primary.) Filed on January 25, 2001 by William Pilkey of Olympia. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 764. (Statement of the Subject: Initiative Measure No. 764 concerns privatizing the children’s administration of DSHS. Concise Description: This measure would dissolve the children’s administration in the department of social and health services. Child protective services would be transferred to the state patrol, and other functions handled by private agencies.) Filed on January 16, 2001 by Jeffery Douglas of Orting. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 765. (Statement of the Subject: Initiative Measure No. 765 concerns property taxes. Concise Description: This measure would eliminate state property tax and laws governing property revaluation and levy limits. Real estate would be assessed at 50% of true value (or less) and taxed at \$5.90 per \$1000.) Filed on February 1, 2001 by Donald Carter of Olympia. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 766. (Statement of the Subject: Initiative Measure No. 766 concerns regulation of marijuana. Concise Description: This measure would legalize and regulate the cultivation, sale, and use of marijuana. A sales tax would be imposed. Use by minors would be prohibited. Amnesty would be extended to past offenders.) Filed on January 24, 2001 by Ross M. Hallett of Port Angeles. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 767. (Relating to clean water. Initiative Measure No. 767 was withdrawn and refilled as Initiative Measure No. 769 before a ballot title was assigned) Filed on February 7, 2001 by Daniel J. Silver of Olympia.

INITIATIVE MEASURE NO. 768. (Statement of the Subject: Initiative Measure No. 768 concerns union membership. Concise Description: this measure would make it unlawful to condition employment on union membership or nonmembership. Contracts allowing retention of union dues or assessments from employee compensation would be void, absent the employee’s written consent.) Filed on February 5, 2001 by Muhammad Farrakhan of Seattle. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 769. (Statement of the Subject: Initiative Measure No. 769 concerns financing water quality projects with general obligation bonds. Concise Description: This measure would provide \$1 billion in bonds for drinking water, wastewater treatment, water conservation, and riparian habitat and streamflow improvements. One-tenth of 1% additional sales tax would be imposed until bond retirement.) Filed on February 23, 2001 by Daniel J. Silver of Olympia. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 770. (Statement of the Subject: Initiative Measure No. 770 concerns voter approval of ‘significant alterations’ to high capacity transportation projects. Concise Description: This measure would require voter approval of “significant alterations” to voter-approved propositions for regional high capacity transportation systems. As defined, “significant alterations” include certain cost increases, delays, and elimination of project elements.) Filed on February 6, 2001 by Christopher Clifford of Renton. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 771. (Statement of the Subject: Initiative Measure No. 771 concerns punishment for the murder of a child. Concise Description: This measure would make first degree murder of a child under 13 aggravated first degree murder, and would impose life

INITIATIVES TO THE PEOPLE

imprisonment without parole for first degree murder of a child under 16.) Filed on March 2, 2001 by Ann F. Stone of Spokane. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 772. (Statement of the Subject: Initiative Measure No. 772 concerns at-large election of state legislators. Concise Description: This measure would establish 33 representative districts and 11 senate districts, each electing 3 legislators. The top 6 primary candidates would qualify for the general election, where the top 3 would be elected.) Filed on March 8, 2001 by Michael A. Johnson of Cheney. No signature petitions presented for checking.

***INITIATIVE MEASURE NO. 773.** (Statement of the Subject: Initiative Measure No. 773 concerns additional tobacco taxes for low-income health programs and other programs. Concise Description: This measure would impose an additional sales tax on cigarettes and a surtax on wholesaled tobacco products. The proceeds would be earmarked for existing programs and expanded health care services for low-income persons.) Filed on March 26, 2001 by Astrid Berg of Seattle. 275,081 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 6, 2001 general election and approved by the following vote: For - 948,529 Against - 486,912.

INITIATIVE MEASURE NO. 774. (Statement of the Subject: Initiative Measure No. 774 concerns long-term in-home care services. Concise Description: This measure would create a "home care quality authority" to establish qualifications, standards, training, referral, workers compensation, and employment relations for publicly funded individual providers of in-home care to elderly and disabled adults.) Filed on April 6, 2001 by Lars Hennem of Seattle, Deana Knutsen of Lynnwood, and Katrinka Gentile of Shoreline. No signature petitions were presented for checking.

***INITIATIVE MEASURE NO. 775.** (Statement of the Subject: Initiative Measure No. 775 concerns long-term in-home care services. Concise Description: this measure would create a "home care quality authority" to establish qualifications, standards, accountability, training, referral and employment relations for publicly funded individual providers of in-home services to elderly and disabled adults.) Filed on April 6, 2001 by Lars Hennem of Seattle, Deana Knutsen of Lynnwood, and Katrinka Gentile of Shoreline. 304,327 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 6, 2001 general election and approved by the following vote: For - 880,523 Against - 522,848.

***INITIATIVE MEASURE NO. 776.** (Statement of the Subject: Initiative Measure No. 776 concerns state and local government charges on motor vehicles. Concise Description: This measure would require license tab fees to be \$30 per year for motor vehicles, including light trucks. Certain local-option vehicle excise taxes and fees used for roads and transit would be repealed.) Filed on January 7, 2002 by Tim D. Eyman of Mukilteo, Ray D. Benham of Kennewick, M. J. Fagan of Spokane, & Leo J. Fagan Spokane. 260,898 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 5, 2002 general election and approved by the following vote: For - 901,478 Against - 849,986.

INITIATIVE MEASURE NO. 777. (Statement of the Subject: Initiative Measure No. 777 concerns employer-employee labor agreements. Concise Description: This measure would prohibit any employer from requiring employees to belong or not to belong to a labor organization, or from requiring employees to pay union dues or representation costs instead of dues.) Filed on January 7, 2002 by Jason C. Smosna of Seattle. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 778. (Statement of the Subject: Initiative Measure No. 778 concerns repealing laws that authorize property forfeiture. Concise Description: This measure would repeal state laws that authorize the seizure and forfeiture of property relating to crimes such as illegal gambling, making or selling illegal drugs, child pornography, tax evasion, and money laundering.) Filed on January 22, 2002 by Ernest R. Lewis of Olympia. This initiative was withdrawn by the sponsor.

INITIATIVES TO THE PEOPLE

- INITIATIVE MEASURE NO. 779. (Statement of the Subject: Initiative Measure No. 779 concerns providing bonus compensation to teachers based on parent ratings. Concise Description: This measure would provide yearly bonus payments for public school teachers who are rated highly by students' parents and guardians, calculated as a percentage of average teacher salary, and paid by the state.) Filed on January 18, 2002 by Donald D. Hansler of Spanaway. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 780. (Statement of the Subject: Initiative Measure No. 780 concerns testing requirements for candidates for public office. Concise Description: This measure would require candidates for most elective offices to complete the tenth grade Washington assessment of student learning before filing for office. Scores would be publicly available and in the voters' pamphlet.) Filed on January 9, 2002 by David Marshak of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 781. (Statement of the Subject: Initiative Measure No. 781 concerns penalties for officers who seek to weaken initiative measures. Concise Description: This measure would set penalties for any legislator or officer who attempts to overturn or weaken an initiative measure; immediate expulsion from office, five years' imprisonment, and permanent ineligibility to hold public office.) Filed on January 14, 2002 by David A. Whitman of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 782. (Statement of the Subject: Initiative Measure No. 782 concerns allocating tax shares according to wealth. Concise Description: This measure would declare that a tiny percentage of individuals and corporations possess 95% of the state's money, and would require that this group pay 95% of all state, county, and city taxes.) Filed on January 14, 2002 by David A. Whitman of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 783. (Statement of the Subject: Initiative Measure No. 783 concerns limiting campaign contributions to those entitled to vote. Concise Description: This measure would prohibit any person from contributing to an election campaign except those entitled to vote in the election, prohibit corporate campaign contributions, and prohibit use of non-voter funds for political advertising.) Filed on January 28, 2002 by Roger D. Whitten of Oakesdale. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 784. (Statement of the Subject: Initiative Measure No. 784 concerns property forfeiture arising from controlled substances laws. Concise Description: This measure would make numerous changes to laws forfeiting property connected with drug crimes, including a requirement of conviction of all owners, additional hearings, and requiring sale, not government use, of forfeited property.) Filed on February 8, 2002 by Ernest R. Lewis of Olympia and Richard Shepard of Fircrest. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 785. (Statement of the Subject: Initiative Measure No. 785 concerns geographic limitations on distribution of transportation funds. Concise Description: This measure would generally require that vehicle fuel taxes, vehicle licensing fees, fares, tolls, and voter-approved taxes be spent for roads, bridges, and mass transit systems in the county where they are collected. Filed on February 5, 2002 by Brandon Scott Durham of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 786. (Statement of the Subject: Initiative Measure No. 786 concerns rights, activities or privileges afforded Washington tribes. Concise Description: This measure would declare that any right, activity or privilege afforded the tribes of Washington state would be shared equally and in common with the citizens of Washington state.) Filed on February 15, 2002 by Omer J. Lupien of Oak Harbor. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 787. (Statement of the Subject: Initiative Measure No. 787 concerns extending the sales and use taxes to motor vehicle fuel. Concise Description: This measure

INITIATIVES TO THE PEOPLE

would extend the sales and use taxes to fuels subject to motor vehicle or special fuel taxes, and to fuels used for public transportation or for transporting persons with special needs.) Filed on February 15, 2002 by Alan C. Harvey of Seattle. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 788. (Statement of the Subject: Initiative Measure No. 788 concerns limiting credit card interest. Concise Description: This measure would provide that the amount of interest charged for credit card balances could not exceed 12 percent per year.) Filed on February 22, 2002 by Michael J. Thompson of Seattle. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 789. (Statement of the Subject: Initiative Measure No. 789 concerns the operation of individual schools within public school districts. Concise Description: This measure would establish a system for funding public education through allocations to individual schools. Each school principal would develop and manage the school's budget, subject to school board approval and state audit.) Filed on February 27, 2002 by Thomas G. Erickson of Vancouver. No signature petitions presented for checking.

***INITIATIVE MEASURE NO. 790.** (Statement of the Subject: Initiative Measure No. 790 concerns law enforcement officers' and fire fighters' retirement system, plan 2. Concise Description: This measure would place management of the law enforcement officers' and fire fighters' retirement system, plan 2, in a board of trustees consisting of six plan participants, three employer representatives, and two legislators.) Filed on March 5, 2002 by Kelly L. Fox and Harold W. Hanson of Olympia. 345,543 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 5, 2002 general election and approved by the following vote: For - 903,113 Against - 800,105.

INITIATIVE MEASURE NO. 791. (Statement of the Subject: Initiative Measure No. 791 concerns the state expenditure limit. Concise Description: This measure would extend state expenditure limits to additional accounts and re-enact and expand the two thirds legislative vote requirement to raise revenue. Reserve levels would be increased and excess amounts would be redistributed.) Filed on March 13, 2002 by Stephanie A. Linklater of North Bend. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 792. (Statement of the Subject: Initiative Measure No. 792 concerns vehicular assault while driving under the influence. Concise Description: This measure would make it a class A felony for anyone to operate or drive any vehicle while under the influence of intoxicating liquor or any drug, and cause bodily harm to another.) Filed on March 14, 2002 by Allan Geoffrey Dyer of Kent. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 793. (Statement of the Subject: Initiative Measure No. 793 concerns the operation of individual schools within public school districts. Concise Description: This measure would establish a system for funding education, in larger school districts, through allocations to individual schools. District central administrative funding would be reduced. Each principal would manage the individual school's budget.) Filed on April 2, 2002 by Thomas G. Erickson of Vancouver. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 794. (Statement of the Subject: Initiative Measure No. 794 concerns the creation of a state health benefits system. Concise Description: This measure would create a Washington health security trust. This agency would develop and administer a single health benefits package for state residents, funded by mandatory premiums, employer assessments, existing taxes, and co-payments.) Filed on March 29, 2002 by Harry Abbott of Everett. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 795. (Statement of the Subject: Initiative Measure No. 795 concerns establishing a pension management board for Washington public employees. Concise Description: This measure would create a participant-elected pension management board to

INITIATIVES TO THE PEOPLE

manage most state retirement systems, and would redefine the duties of agencies, including the state investment board and the department of retirement systems.) Filed on April 3, 2002 by David A. Thurman of Bellingham, Kathleen L. Reim of Sedro-Woolley & Monte E. Bianchi of Mt. Vernon. This initiative was withdrawn by the sponsors.

INITIATIVE MEASURE NO. 796. (Statement of the Subject: Initiative Measure No. 796 concerns replacing "Washington" with "Cascadia" in the Revised Code of Washington. Concise Description: This measure would replace any reference to "Washington" in the Revised Code of Washington with "Cascadia". Abbreviations for "Washington" would be replaced with abbreviations for "Cascadia"). Filed on April 4, 2002 by David John Anderson of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 797. (Statement of the Subject: Initiative Measure No. 797 concerns establishing a pension management board for state retirement systems. Concise Description: This measure would create a participant-elected pension management board to manage most state retirement systems, and would redefine the duties of agencies, including the state investment board and the department of retirement systems.) Filed on April 24, 2002 by David A. Thurman of Bellingham. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 798. (Statement of the Subject: Initiative Measure No. 798 concerns the operation of individual schools within public school districts. Concise Description: This measure would establish a system for funding education through allocations to individual schools and reductions in central administrative expenses. Each principal would manage the school's budget, subject to audit and board approval.) Filed on April 26, 2002 by Thomas G. Erickson of Vancouver. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 799. (Statement of the Subject: Initiative Measure No. 799 concerns the operation of individual schools within public school districts. Concise Description: This measure would establish a system for funding education through allocations to individual schools and reductions in central administrative expenses. Each principal would manage the school's budget, subject to audit and board approval.) Filed on May 24, 2002 by Thomas G. Erickson of Vancouver. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 800. (Statement of the Subject: Initiative Measure No. 800 concerns legal challenges to certain initiatives and other legislative bills. Concise Description: This measure would direct the state attorney general to challenge the provisions of Initiative 601 and certain other initiatives and legislative bills that require supermajority votes on revenues, fees or expenditures.) Filed on January 6, 2003 by Stephen M. Zemke of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 801. (Statement of the Subject: Initiative Measure No. 801 concerns the financial impact of initiatives. Concise Description: This measure would require any initiative requiring new programs or services to specify their sources of revenue, and require any initiative reducing revenue to specify programs or services to be reduced or eliminated.) Filed on January 6, 2003 by Stephen M. Zemke of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 802. (Statement of the Subject: Initiative Measure No. 802 concerns signature gathering for initiative and referendum petitions. Concise Description: measure would declare it unlawful to pay or receive money or other value based on the number of signatures obtained on an initiative or referendum petition, and would repeal a similar law.) Filed on January 6, 2003 by J. Pat Thompson of Everett. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 803. (Statement of the Subject: Initiative Measure No. 803 concerns requirements to enact certain legislation that requires supermajority votes. Concise Description: This measure would require initiatives and legislative bills requiring a supermajority vote by the state, counties, cities or ports to raise taxes or fees or make

INITIATIVES TO THE PEOPLE

expenditures, to pass by the same supermajority.) Filed on January 6, 2003 by Stephen M. Zemke of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 804. (Statement of the Subject: Initiative Measure No. 804 concerns the state voters' pamphlet. Concise Description: This measure would require a voters' pamphlet for primary and general elections involving a statewide office or ballot proposition, and would require voters' pamphlets to contain information concerning state budgets, revenues and services.) Filed on January 6, 2003 by Stephen M. Zemke of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 805. (Statement of the Subject: Initiative Measure No. 805 concerns reviewing initiative measures for constitutionality. Concise Description: This measure would establish a commission to analyze whether proposed initiative measures might be contrary to the state constitution or the federal constitution or laws, and prepare voters' pamphlet statements listing potential challenges.) Filed on January 6, 2003 by Stephen M. Zemke of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 806. (Statement of the Subject: Initiative Measure No. 806 concerns initiative measures repealing existing law. Concise Description: This measure would require an initiative measure to display the full text of any section of law that would be repealed by the measure.) Filed on January 6, 2003 by Stephen M. Zemke of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 807. (Statement of the Subject: Initiative Measure No. 807 concerns the state expenditure limit. Concise Description: This measure would require either a two-thirds legislative majority or voter approval to "raise state revenues" as defined or increase fees, and revise requirements on spending limit changes and the emergency reserve fund.) Filed on January 6, 2003 by Tim Eyman of Mukilteo, Leo Fagan of Spokane, Ray Benham of Kennewick, and M. J. Fagan of Spokane. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 808. (Statement of the Subject: Initiative Measure No. 808 concerns the operation of individual schools within public school districts. Concise Description: This measure would establish a system for funding education through allocations to individual schools and reductions in central administrative expenses. Each principal would manage the school's budget, subject to audit and board approval.) Filed on January 6, 2003 by Thomas G. Erickson of Vancouver. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 809. (Statement of the Subject: Initiative Measure No. 809 concerns fees to use certain state park and recreation facilities. Concise Description: This measure would require purchasing a pass, in lieu of other fees, to use certain outdoor recreation facilities owned or operated by the state parks and recreation commission and certain other state agencies.) Filed on January 6, 2003 by James L. King, Jr. of Olympia. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 810. (Statement of the Subject: Initiative Measure No. 810 concerns the state expenditure limit. Concise Description: This measure would modify the expenditure limit law, including re-setting the base year, increasing the maximum level of the emergency reserve fund, and eliminating transfers to the student achievement, transportation, and general funds.) Filed on January 6, 2003 by James L. King, Jr. of Olympia. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 811. (Statement of the Subject: Initiative Measure No. 811 concerns limiting credit card interest rates. Concise Description: This measure would provide that the amount of interest charged for unsecured credit card balances could not exceed twelve percent per year.) Filed on January 6, 2003 by Michael J. Thompson of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 812. (Statement of the Subject: Initiative Measure No. 812 concerns uses of public land. Concise Description: This measure would prohibit the grazing of

INITIATIVES TO THE PEOPLE

- livestock on nonfederal public land in this state, amending or repealing several statutes to reflect this prohibition.) Filed on January 6, 2003 by John J. Anderson of Kettle Falls. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 813. (Statement of the Subject: Initiative Measure No. 813 concerns limitations on political campaign contributions. Concise Description: This measure would prohibit campaign contributions by persons not entitled to vote for the candidate or ballot proposition, except token amounts; prohibit contributions by corporations; and prohibit use of non-voter contributions for advertising.) Filed on January 6, 2003 by Roger D. Whitten of Oakesdale. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 814. (Statement of the Subject: Initiative Measure No. 814 concerns an income tax. Concise Description: This measure would direct the legislature to enact an income tax that would force those individuals and corporations controlling 95% of the money in the state to pay 95% of the taxes.) Filed on January 6, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 815. (Statement of the Subject: Initiative Measure No. 815 concerns taxes. Concise Description: This measure would declare that individuals with fifty thousand dollars or less in annual income, and couples with a combined income of less than ninety thousand dollars, would be exempt from paying taxes.) Filed on January 6, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 816. (Statement of the Subject: Initiative Measure No. 816 concerns limiting eligibility for public office. Concise Description: This measure would limit eligibility for office of anyone who has served one or more terms in an office involving legislative duties. Such persons would never be eligible for any other public office.) Filed on January 6, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 817. (Statement of the Subject: Initiative Measure No. 817 concerns penalties for broken campaign promises. Concise Description: This measure would declare that any political candidate who promises to support certain legislation but does not, or lies to the taxpayers about any subject, would be expelled from office, fined, and imprisoned.) Filed on January 6, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 818. (Statement of the Subject: Initiative Measure No. 818 concerns political campaigns. Concise Description: This measure would declare that all political campaigns in the state would last only 14 six-hour days from the date this measure is approved, with no campaign contributions allowed and minimal taxpayer cost.) Filed on January 6, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 819. (Statement of the Subject: Initiative Measure No. 819 concerns term limits for certain public offices. Concise Description: This measure would set a limit of one two-year term for certain state and local offices in this state. Relatives of current or former officeholders would be ineligible to hold certain public offices.) Filed on January 6, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 820. (Statement of the Subject: Initiative Measure No. 820 concerns the effective date of initiatives. Concise Description: This measure would declare that all initiatives would become effective the day they are "approved by the taxpayers of the State of Washington.") Filed on January 6, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 821. (Statement of the Subject: Initiative Measure No. 821 concerns penalties for public officials who weaken initiatives. Concise Description: This measure would make it unlawful for any state or local legislative officer to ignore, overturn, or

INITIATIVES TO THE PEOPLE

weaken an initiative, other than by referendum. Violators would be expelled from office, fined, and imprisoned.) Filed on January 6, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 822. (Statement of the Subject: Initiative Measure No. 822 concerns maximum interest rates. Concise Description: This measure would set a maximum rate of 3% simple interest that could be charged by financial institutions and businesses extending credit to customers. Closing costs and other added fees would be unlawful.) Filed on January 6, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 823. (Statement of the Subject: Initiative Measure No. 823 concerns liquor sales. Concise Description: measure would abolish the liquor control board, and would permit any purveyor of pharmaceuticals or groceries to sell all of the liquor that has been sold by the liquor board since 1933.) Filed on January 6, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 824. (Statement of the Subject: Initiative Measure No. 824 concerns a statement about "End Seat Belt Piracy." Concise Description: This measure would state: "An \$86.00 seat belt penalty will deprive a mother with two or three small children, minimum wages and no child support of more than a day's wages.") Filed on January 6, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 825. (Statement of the Subject: Initiative Measure No. 825 concerns school levies. Concise Description: This measure would declare that school levies are discontinued as of the approval date of this measure.) Filed on January 6, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 826. (Statement of the Subject: Initiative Measure No. 826 concerns locksmiths. Concise Description: This measure would prohibit a locksmith from providing copies of keys to any person other than the customer who paid for the work. Violators and their families would have their licenses permanently revoked.) Filed on January 6, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 827. (Statement of the Subject: Initiative Measure No. 827 concerns a referendum on the salaries of public officers. Concise Description: This measure would declare that salaries and fringe benefits of everyone appointed or elected to public office in the state must be decided by a referendum to the people retroactive to November 2002.) Filed on January 7, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 828. (Statement of the Subject: Initiative Measure No. 828 concerns postage on mailed absentee ballots. Concise Description: This measure would eliminate the requirement that voters pay postage when mailing absentee ballots to the county auditor.) Filed on January 10, 2003 by Emily E. Walters of Maple Valley. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 829. (Statement of the Subject: Initiative Measure No. 829 concerns postage costs on mailed voter registration information. Concise Description: This measure would eliminate postage payment requirements on voter registration forms, and would instruct that the words "NO POSTAGE NECESSARY" be included in the registration form.) Filed on January 7, 2003 by Emily E. Walters of Maple Valley. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 830. (Statement of the Subject: Initiative Measure No. 830 concerns penalties for public officials in contact with lobbyists. Concise Description: This measure would make it unlawful for certain officials to be seen in the presence of lobbyists. Violators would be expelled from office, fined \$50,000, and sentenced to five years in the penitentiary.) Filed on January 6, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.

INITIATIVES TO THE PEOPLE

- INITIATIVE MEASURE NO. 831. (Statement of the Subject: Initiative Measure No. 831 concerns adoption and transmittal of a resolution about Tim Eyman. Concise Description: This measure would set forth "whereas" recitals characterizing Tim Eyman and initiatives he sponsored, followed by a resolution labeling him using a vernacular term that denotes the back end of a horse) Filed on January 7, 2003 by David G. Goldstein of Seattle. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 832. (Statement of the Subject: Initiative Measure No. 832 concerns designated smoking areas in restaurants. Concise Description: This measure would prohibit any restaurant in Kitsap County from designating a smoking area.) Filed on January 6, 2003 by Mary Larson of Port Orchard. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 833. (Statement of the Subject: Initiative Measure No. 833 concerns violent sex offenses. Concise Description: This measure would define certain crimes as violent sex offenses, and would require that any person convicted of such an offense be sentenced to life in prison without the possibility of parole.) Filed on January 6, 2003 by Tracy Oetting of Skykomish. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 834. (Statement of the Subject: Initiative Measure No. 834 concerns replacing "Washington" with "Cascadia" in the Revised Code of Washington. Concise Description: This measure would replace any reference to "Washington" in the Revised Code of Washington with "Cascadia". Abbreviations for "Washington" would be replaced with abbreviations for "Cascadia".) Filed on January 23, 2003 by George C. Deane of Everett. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 835. (Statement of the Subject: Initiative Measure No. 835 concerns establishing a pension board for state retirement systems. Concise Description: This measure would create a participant-elected pension board to supervise state retirement systems, and would redefine the duties of the state actuary, the joint committee on pension policy, and the pension funding council.) Filed on January 24, 2003 by David A. Thurman of Bellingham. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 836. (Statement of the Subject: Initiative Measure No. 836 concerns enforcement of safety belt laws. Concise Description: This measure would provide that laws concerning the use of vehicle safety belts, except children's belts, would be enforced only as a secondary action when a driver has been detained for another reason.) Filed on January 29, 2003 by Daniel J. Goebel of Lacey. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 837. (Statement of the Subject: Initiative Measure No. 837 concerns donations of human organs. Concise Description: This measure would create a presumption that when an individual over eighteen dies, his or her organs are available for donation, unless the individual or a family member specifically opts against organ donation.) Filed on January 24, 2003 by David J. Coleman of Olympia. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 838. (Statement of the Subject: Initiative Measure No. 838 concerns marriages. Concise Description: This measure would legalize marriages between two people of the same sex.) Filed on January 16, 2003 by Roger D. Whitten of Oakesdale. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 839. (Statement of the Subject: Initiative Measure No. 839 concerns repealing the business and occupation tax. Concise Description: This measure would repeal the state business and occupation tax levied on the act or privilege of engaging in business activities.) Filed on January 16, 2003 by Roger D. Whitten of Oakesdale. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 840. (Statement of the Subject: Initiative Measure No. 840 concerns controlled substances. Concise Description: This measure would remove marijuana from the schedules of unlawful controlled substances. The definition of "drug paraphernalia" would

INITIATIVES TO THE PEOPLE

be amended to remove certain objects designed for use in ingesting marijuana, cocaine, or hashish.) Filed on January 16, 2003 by Roger D. Whitten of Oakesdale. No signature petitions were presented for checking.

***INITIATIVE MEASURE NO. 841.** (Statement of the Subject: Initiative Measure No. 841 concerns the repeal and future limitation of ergonomics regulations. Concise Description: This measure would repeal existing state ergonomics regulations and would direct the department of labor and industries not to adopt new ergonomics regulations unless a uniform federal standard is required.) Filed on January 29, 2003 by Randy M. Gold of Wenatchee. 258,411 signatures were filed and found sufficient. This measure was submitted to the voters at the November 4, 2003 general election and approved by the following vote: For - 656,737 Against - 570,980.

INITIATIVE MEASURE NO. 842. (Statement of the Subject: Initiative Measure No. 842 concerns health care financing. Concise Description: This measure would create a Washington health security trust to develop a health care plan for all state residents, funded by co-payments, employer and employee assessments, and shifting tax revenues from other uses.) Filed on January 28, 2003 by Harold Abbott of Everett. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 843. (Statement of the Subject: Initiative Measure No. 843 concerns state sales and use taxes on motor vehicles. Concise Description: This measure would place the state's portion of the sales tax and the use tax on motor vehicles in the motor vehicle fund, to be used only for road construction and maintenance purposes.) Filed on February 10, 2003 by Suzanne D. Karr of Everett. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 844. (Statement of the Subject: Initiative Measure No. 844 concerns performance audits of state agencies and institutions. Concise Description: This measure would direct the state auditor to conduct performance audits of state agencies and institutions. A citizens' oversight committee would be created, and \$5 million would be appropriated for fiscal year 2004.) Filed on February 10, 2003 by Suzanne D. Karr of Everett. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 845. (Statement of the Subject: Initiative Measure No. 845 concerns government contracts. Concise Description: This measure would require the granting of preferential treatment to economically disadvantaged businesses in awarding government contracts.) Filed on January 30, 2003 by Walter K. Backstrom of Woodinville. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 846. (Statement of the Subject: Initiative Measure No. 846 concerns enacting a state income tax. Concise Description: This measure would impose an income tax on taxpayers with adjusted gross income exceeding \$100,000 per year. The rate would range from 1% to 2%. Deductions would be similar to federal tax deductions.) Filed on February 6, 2003 by Stephen P. Martin of Silverdale. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 847. (Statement of the Subject: Initiative Measure No. 847 concerns employing dismissed Liquor Board employees. Concise Description: This measure would require any private merchant with ten or more employees, to be eligible to sell liquor in the state, to employ at least one former state liquor board employee until retirement.) Filed on February 10, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 848. (Relating to prohibiting the implementation of a Link Light Rail system.) Filed on February 14, 2003 by Tim Eyman of Mukilteo, Leo Fagan of Spokane, Ray Benham of Kennewick, and M. J. Fagan of Spokane. Withdrawn by sponsor.

INITIATIVE MEASURE NO. 849. (Statement of the Subject: Initiative Measure No. 849 concerns filing affidavits when submitting initiatives. Concise Description: This measure would permit a person, when submitting more than one initiative, to file a single affidavit rather

INITIATIVES TO THE PEOPLE

- than a separate affidavit for each measure.) Filed on February 24, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 850. (Statement of the Subject: Initiative Measure No. 850 concerns the time to submit initiative measures. Concise Description: measure would permit sponsors to submit their initiatives on July 1 "to give sponsors plenty of time to collect signatures.") Filed on February 24, 2003 by David A. Whitman of Seattle. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 851. (Statement of the Subject: Initiative Measure No. 851 concerns providing bonus compensation to teachers based on parent ratings. Concise Description: This measure would provide yearly bonus payments for public school teachers based on parent/guardian ratings, calculated as a percentage of average teacher salary, and funded by a sales tax increase of 0.15 percent.) Filed on March 6, 2003 by Donald D. Hansler of Spanaway. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 852. (Statement of the Subject: Initiative Measure No. 852 concerns prohibiting the implementation of the Link Light Rail system. Concise Description: This measure would prohibit the Central Puget Sound Regional Transit Authority (Sound Transit) and nearby counties and cities from implementing the Link Light Rail system between SeaTac and Seattle, beyond existing contractual obligations.) Filed on March 12, 2003 by Tim Eyman of Mukilteo. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 853. (Statement of the Subject: Initiative Measure No. 853 concerns revising laws concerning state fiscal matters. Concise Description: This measure would revise the way the state expenditure limit is calculated, require adoption of biennial budget goals and priorities, provide for periodic citizen reviews of tax exemptions, and eliminate legislative supermajority requirements.) Filed on March 26, 2003 by Stephen M. Zemke of Seattle. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 854. (Statement of the Subject: Initiative Measure No. 854 concerns regional transportation. Concise Description: This measure would provide for elected regional transportation accountability boards (required in Central Puget Sound, optional elsewhere). Each board would consolidate and govern existing regional transportation agencies and coordinate planning, funding, and services.) Filed on April 4, 2003 by Michael K. Vaska of Issaquah, Bruce Agnew, David A. Russell. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 855. (Relating to property taxes.) Filed on April 10, 2003 by Tim Eyman of Mukilteo. Withdrawn by sponsor.
- INITIATIVE MEASURE NO. 856. (Statement of the Subject: Initiative Measure No. 856 concerns property tax levies Concise Description: This measure would reduce the state property tax levy by 25%, repeal local government authority to increase regular levies 1% per year, and require general election voter approval for such local levy increases.) Filed on April 29, 2003 by Tim Eyman of Mukilteo. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 857. (Statement of the Subject: Initiative Measure No. 857 concerns wages and benefits of individual home care providers. Concise Description: This measure would provide the following to individual providers of publicly-funded home care: wages of at least \$11.50 per hour by mid-2004; workers compensation coverage; and subsidized enrollment in the basic health plan.) Filed on April 29, 2003 by Sally Easterwood-Wilbon of Seattle, Doris Cole, Lacey Wright. No signature petitions were presented for checking.
- INITIATIVE MEASURE NO. 858. (Statement of the Subject: Initiative Measure No. 858 concerns wages and benefits of individual home care providers. Concise Description: This measure would provide the following to individual providers of publicly-funded home care: compensation as provided in their collective bargaining agreement; workers compensation coverage; and subsidized enrollment in the state's basic health plan.) Filed on April 29, 2003

INITIATIVES TO THE PEOPLE

by Sally Easterwood-Wilbon of Seattle, Doris Cole. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 859. (Relating to property taxes.) Filed on May 22, 2003 by Tim Eyman of Mukilteo. Withdrawn by sponsor.

INITIATIVES TO THE LEGISLATURE
(SUPPLEMENTING 2002 LAWS, PAGE 2340)

- INITIATIVE TO THE LEGISLATURE NO. 262 (Statement of the Subject: Initiative Measure No. 262 concerns health care financing. Concise Description: This measure would create a health care finance commission, appointed by the governor. The commission would propose a unified health services financing system for all Washington residents, for submission to the 2005 Legislature.)—Filed on March 18, 2002 by Stuart J. Bramhall of Seattle. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 263 (Statement of the Subject: Initiative Measure No. 263 concerns replacing "Washington" with "Cascadia" in the Revised Code of Washington. Concise Description: This measure would replace any reference to "Washington" in the Revised Code of Washington with "Cascadia". Abbreviations for "Washington" would be replaced with abbreviations for "Cascadia").—Filed on May 29, 2002 by David J. Anderson of Seattle. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 264 (Statement of the Subject: Initiative Measure No. 264 concerns transportation financing. Concise Description: This measure would direct that all revenue from state sales tax collected on the sale of motor vehicles be placed in the motor vehicle fund, which is used for road and highway purposes.)—Filed on July 5, 2002 by Ray DeMonte Benham of Kennewick. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 265 (Statement of the Subject: Initiative Measure No. 265 concerns transportation. Concise Description: This measure would direct that state sales tax on vehicles be placed in the motor vehicle fund, require performance audits on transportation agencies, and open carpool lanes to all vehicles in off-peak hours.)—Filed on July 23, 2002 by Tim D. Eyman of Mukilteo, Ray D. Benham of Kennewick, Leo J. Fagan of Spokane and Michael J. Fagan of Spokane. This initiative was withdrawn by the sponsors.
- INITIATIVE TO THE LEGISLATURE NO. 266 (Statement of the Subject: Initiative Measure No. 266 concerns regulation of attorneys. Concise Description: This measure would create an appointed review board to govern the state bar association and regulate attorneys at law, and would repeal existing laws concerning the bar association and the practice of law.)—Filed on July 31, 2002 by Allan L. Robinson of Olympia. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 267 (Statement of the Subject: Initiative Measure No. 267 concerns funding, auditing and modifying transportation. Concise Description: This measure would redirect state sales and use taxes on motor vehicles to highway purposes rather than other governmental purposes, require transportation agency performance audits, and open carpool lanes during non-peak hours.)—Filed on August 8, 2002 by Tim D. Eyman of Mukilteo, Ray D. Benham of Kennewick, Leo J. Fagan of Spokane and M. J. Fagan of Spokane. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 268 (Statement of the Subject: Initiative Measure No. 268 concerns electronic mail communications. Concise Description: This measure would make it unlawful to intercept or record any private communication transmitted by e-mail between two or more points within or without the state, without obtaining the consent of all participants.)—Filed on August 5, 2002 by David M. Reeve of Kirkland. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 269 (Statement of the Subject: Initiative Measure No. 269 concerns limiting increases in local government revenues to reduce property taxes. Concise Description: This measure would limit general fund revenue increases for certain local governments to 1% per year, excluding new voter-approved increases, and would use revenues collected above this limit to reduce property tax levies.)—Filed on August 23, 2002 by Tim D. Eyman of Mukilteo. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 270 (Statement of the Subject: Initiative Measure No.

INITIATIVES TO THE LEGISLATURE

270 concerns limiting increases in city, town, and county revenues. Concise Description: This measure would limit general fund revenue increases for cities, towns, and counties to 1% per year, excluding new voter-approved increases, with revenues collected above this limit used to reduce property tax levies.)—Filed on September 24, 2002 by Tim D. Eyman of Mukilteo. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 271 (Statement of the Subject: Initiative Measure No. 271 concerns ergonomics regulations. Concise Description: This measure would repeal existing state ergonomics regulations and would direct the department of labor and industries not to adopt new ergonomics regulations unless a uniform federal standard is required.)—Filed on September 24, 2002 by Tim D. Eyman of Mukilteo. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 272 (Statement of the Subject: Initiative Measure No. 272 concerns state agency administrative rules. Concise Description: This measure would direct the legislature to review all administrative rules adopted by state agencies. Rules not enacted as legislative bills would become void, according to a schedule set forth in this measure.)—Filed on September 24, 2002 by Tim D. Eyman of Mukilteo. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 273 (Statement of the Subject: Initiative Measure No. 273 concerns city, town, and county revenues. Concise Description: This measure would limit general fund revenue increases for cities, towns, and counties to 1% per year, excluding new voter-approved increases, and use revenues collected above this limit to reduce property tax levies.)—Filed on October 4, 2002 by Tim D. Eyman of Mukilteo. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 274 (Relating to reestablishing Initiative #601.)—Filed on October 10, 2002 by Tim D. Eyman of Mukilteo. This initiative was withdrawn by the sponsor before a ballot title was prepared.

INITIATIVE TO THE LEGISLATURE NO. 275 (Relating to reestablishing Initiative #601.)—Filed on October 21, 2002 by Tim D. Eyman of Mukilteo. This initiative was withdrawn by the sponsor before a ballot title was prepared.

INITIATIVE TO THE LEGISLATURE NO. 276 (Relating to reestablishing Initiative #601.)—Filed on October 29, 2002 by Tim D. Eyman of Mukilteo. This initiative was withdrawn by the sponsor before a ballot title was prepared.

INITIATIVE TO THE LEGISLATURE NO. 277 (Statement of the Subject: Initiative Measure No. 277 concerns state and local government fiscal matters. Concise Description: This measure would require either voter approval or legislative approval by a three-fourths vote for state, county, and city actions that raise revenue or require revenue-neutral tax shifts, as defined in the measure.)—Filed on November 12, 2002 by Tim D. Eyman of Mukilteo, M. J. Fagan of Spokane and Leo J. Fagan of Spokane. This initiative was withdrawn by the sponsors.

INITIATIVE TO THE LEGISLATURE NO. 278 (Relating to requiring legislative supermajorities to raise revenue.)—Filed on November 22, 2002 by Tim D. Eyman of Mukilteo. This initiative was withdrawn by the sponsor before a ballot title was prepared.

INITIATIVE TO THE LEGISLATURE NO. 279 (Relating to property taxes.)—Filed on December 2, 2002 by Tim D. Eyman of Mukilteo. This initiative was withdrawn by the sponsor before a ballot title was prepared.

INITIATIVE TO THE LEGISLATURE NO. 280 (Statement of the Subject: Initiative Measure No. 280 concerns extra pay for public school teachers. Concise Description: This measure would award compensation to public school teachers rated highly on questionnaires filled out by students', parents and guardians, funded by a sales tax increase of fourteen one-hundredths of one percent (0.14%).—Filed on November 25, 2002 by Donald D. Hansler of Spanaway. No signature petitions were submitted for checking.

INITIATIVES TO THE LEGISLATURE

- INITIATIVE TO THE LEGISLATURE NO. 281 (Statement of the Subject: Initiative Measure No. 281 concerns reduction of the state property tax levy. Concise Description: This measure would gradually eliminate the state property tax levy for the common schools, by 25% of the current level in 2003, 50% in 2004, 75% in 2005, and completely (100%) in 2006.)—Filed on December 13, 2002 by Tim D. Eyman of Mukilteo. The initiative was withdrawn by the sponsor.
- INITIATIVE TO THE LEGISLATURE NO. 282 (Relating to re-establishing I-601.)—Filed on December 9, 2002 by Tim D. Eyman of Mukilteo. The initiative was filed too late to receive a ballot title.
- INITIATIVE TO THE LEGISLATURE NO. 283 (Relating to property taxes.)—Filed on December 18, 2002 by Tim D. Eyman of Mukilteo. The initiative was filed too late to receive a ballot title.
- INITIATIVE TO THE LEGISLATURE NO. 284 (Relating to initiative signature gathering.)—Filed on December 9, 2002 by J. Pat Thompson of Everett. The initiative was filed too late to receive a ballot title.
- INITIATIVE TO THE LEGISLATURE NO. 285 (Statement of the Subject: Initiative Measure No. 285 concerns teaching the Declaration of Independence, the constitutions, and related documents. Concise Description: This measure would require all schools to include specified teaching in their social studies curriculum concerning the Declaration of Independence, the constitutions of the United States and of the State, and related documents.) Filed on March 13, 2003 by Ray D. Benham of Seattle, Thomas C. Larsen, James Rigby. No signature petitions were submitted for checking.
- INITIATIVE TO THE LEGISLATURE NO. 286 (Statement of the Subject: Initiative Measure No. 286 concerns replacing the name "Washington" with "Cascadia". Concise Description: This measure would require future publications of the Revised Code of Washington to replace any references to the state of "Washington" with references to the state of "Cascadia," with appropriate changes in abbreviations.) Filed on March 12, 2003 by George C. Deane of Everett. No signature petitions were submitted for checking.
- INITIATIVE TO THE LEGISLATURE NO. 287 (Statement of the Subject: Initiative Measure No. 287 concerns valuing real property for tax purposes. Concise Description: This measure would define real property value as the fair market value of the last purchase price paid, and would require property tax assessment on this basis beginning with taxes collected in 2005.) Filed on March 12, 2003 by Paul Richards of Seattle. No signature petitions were submitted for checking.
- INITIATIVE TO THE LEGISLATURE NO. 288 (Statement of the Subject: Initiative Measure No. 288 concerns performance audits of state agencies and institutions. Concise Description: This measure would direct the state auditor to conduct performance audits of state government programs, with the assistance of a citizens oversight committee. Five million dollars would be appropriated for fiscal year 2005.) Filed on March 12, 2003 by Suzanne D. Karr of Everett. No signature petitions were submitted for checking.
- INITIATIVE TO THE LEGISLATURE NO. 289 (Statement of the Subject: Initiative Measure No. 289 concerns investigating changes in state boundary lines. Concise Description: This measure would direct the Spokane County boundary review board to conduct an investigation into the feasibility and the mechanics of defining new boundary lines for the states of Washington, Oregon, and Idaho.) Filed on March 14, 2003 by Kenneth W. Sletten of Keyport. No signature petitions were submitted for checking.
- INITIATIVE TO THE LEGISLATURE NO. 290 (Statement of the Subject: Initiative Measure No. 290 concerns property tax levies. Concise Description: This measure would reduce the state portion of the property tax levy by 25%, effective in 2004, and would require local governments to seek voter approval for all regular property tax levy increases.) Filed on

INITIATIVES TO THE LEGISLATURE

March 17, 2003 by Tim Eyman of Mukilteo. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 291 (Statement of the Subject: Initiative Measure No. 291 concerns credit card interest. Concise Description: This measure would provide that the amount of interest charged for unsecured credit card balances could not exceed twelve percent per year.) Filed on April 11, 2003 by Michael J. Thompson of Seattle. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 292 (Statement of the Subject: Initiative Measure No. 292 concerns regional transportation. Concise Description: This measure would provide for elected regional transportation accountability boards (required in Central Puget Sound, optional elsewhere). Each board would consolidate and govern existing regional transportation agencies and coordinate planning, funding, and services.) Filed on April 4, 2003 by Michael K. Vaska of Issaquah, Bruce Agnew, David A. Russell. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 293 (Relating to property tax levies.) Filed on April 23, 2003 by Tim Eyman of Mukilteo. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 294 (Relating to property tax levies.) Filed on April 23, 2003 by Tim Eyman of Mukilteo. Withdrawn by sponsor.

INITIATIVE TO THE LEGISLATURE NO. 295 (Relating to property tax levies.) Filed on May 5, 2003 by Tim Eyman of Mukilteo. Withdrawn by sponsor.

INITIATIVE TO THE LEGISLATURE NO. 296 (Relating to property tax levies.) Filed on June 9, 2003 by Tim Eyman of Mukilteo. Withdrawn by sponsor.

INITIATIVE TO THE LEGISLATURE NO. 297 (Statement of the Subject: Initiative Measure No. 297 concerns mixed radioactive and nonradioactive hazardous waste. Concise Description: This measure would add new provisions concerning mixed radioactive and nonradioactive hazardous waste, requiring cleanup of contamination before additional waste is added, prioritizing cleanup, providing for public participation and enforcement through citizen lawsuits.) Filed on June 9, 2003 by Gerald M. Pollet of Seattle. 280,382 signatures were filed and found sufficient. The measure was certified to the Legislature on January 28, 2004. The Legislature failed to take action, and as provided by the state constitution, the measure will be submitted to the voters at the November 2, 2004 general election.

INITIATIVE TO THE LEGISLATURE NO. 298 (Relating to property tax levies.) Filed on June 18, 2003 by Tim Eyman of Mukilteo. Withdrawn by sponsor.

INITIATIVE TO THE LEGISLATURE NO. 299 (Relating to property tax levies.) Filed on July 1, 2003 by Tim Eyman of Mukilteo. Withdrawn by sponsor.

INITIATIVE TO THE LEGISLATURE NO. 300 (Statement of the Subject: Initiative Measure No. 300 concerns regional transportation planning, funding, and audits. Concise Description: This measure would authorize regional transportation accountability boards (required for certain high population and adjoining counties) to govern consolidated transportation agencies and submit regional plans to voters. Certain transportation powers would be revised.) Filed on July 18, 2003 by Michael K. Vaska of Issaquah, Bruce Agnew, David A. Russell. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 301 (Statement of the Subject: Initiative Measure No. 301 concerns property tax levies of local governments, including local taxing districts. Concise Description: This measure would reduce regular property tax levies for counties, cities, towns, and other local taxing districts by 25%, and require 60% voter approval to increase these levies above the 1% annual limit.) Filed on July 15, 2003 by Tim Eyman of Mukilteo. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 302 (Statement of the Subject: Initiative Measure No. 302 concerns a process to provide citizens opinions to state government. Concise

INITIATIVES TO THE LEGISLATURE

Description: This measure would establish a program, funded by fees and donations, whereby citizens can volunteer to meet in small groups and give their opinions on topics selected by the governor, auditor, and legislators.) Filed on July 7, 2003 by Richard J. Spady of Bellevue. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 303 (Statement of the Subject: Initiative Measure No. 303 concerns local government regular property tax levies. Concise Description: This measure would reduce regular property tax levies for counties, cities, and other local taxing districts by 25%, and require 60% voter approval for multi-year levy increases exceeding the current 1% levy limit.) Filed on July 25, 2003 by Tim Eyman of Mukilteo. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 304 (Statement of the Subject: Initiative Measure No. 304 concerns sales and use tax exemptions. Concise Description: This measure would exempt from sales and use tax the purchase or use of tangible personal property by school districts, and exempt from sales tax charges for constructing or maintaining school facilities.) Filed on July 30, 2003 by William Barnet of Lake Stevens. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 305 (Statement of the Subject: Initiative Measure No. 305 concerns local government regular property tax levies. Concise Description: This measure would reduce regular property tax levies for counties, cities, and other local taxing districts by 25%, and require 60% voter approval for multi-year levy increases exceeding the current 1% levy limit.) Filed on August 8, 2003 by Tim Eyman of Mukilteo. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 306 (Statement of the Subject: Initiative Measure No. 306 concerns additional cigarette taxation to pay for nursing programs. Concise Description: This measure would impose an additional tax of 15% on the sale, use, consumption, handling, possession, or distribution of cigarettes. The revenue would be allocated to state colleges and universities for nursing programs.) Filed on July 25, 2003 by Ameliya Abero of Seattle. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 307 (Statement of the Subject: Initiative Measure No. 307 concerns local government regular property tax levies. Concise Description: This measure would reduce regular property tax levies for counties, cities, and other local taxing districts by 25%, and require 60% voter approval for multi-year levy increases exceeding the current 1% levy limit.) Filed on August 25, 2003 by Tim Eyman of Mukilteo. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 308 (Statement of the Subject: Initiative Measure No. 308 concerns regulation of pesticides and fertilizers in agriculture. Concise Description: This measure would regulate pesticide and fertilizer use in agriculture through new reporting requirements, earmarking certain funds for pesticide and fertilizer reduction, limiting tax exemptions for pesticides and fertilizers, and establishing a commission.) Filed on August 20, 2003 by Yoram K Bauman of Seattle. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 309 (Statement of the Subject: Initiative Measure No. 309 concerns property tax levies. Concise Description: This measure would reduce regular property tax levies by counties, cities, and other local taxing districts by 25% beginning in 2005. The measure would not affect voter-approved special levies, including local school levies.) Filed on September 8, 2003 by Tim Eyman of Mukilteo. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 310 (Statement of the Subject: Initiative Measure No. 310 concerns pesticide and fertilizer use Concise Description: This measure would require new reporting of pesticide use, limit certain pesticide and fertilizer tax exemptions, earmark

INITIATIVES TO THE LEGISLATURE

revenues to protect health and the environment from pesticide and fertilizer use, and establish a commission.) Filed on September 9, 2003 by Yoram K Bauman of Seattle. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 311 (Statement of the Subject: Initiative Measure No. 311 concerns calling for a constitutional convention. Concise Description: This measure would direct the legislature to call for a constitutional convention to amend the United States Constitution by establishing a national initiative and referendum, eliminating the electoral college, and modifying treaty-making power.) Filed on September 8, 2003 by Richard Lee Moore of Underwood. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 312 (Statement of the Subject: Initiative Measure No. 312 concerns providing bonus compensation to teachers based on parent ratings. Concise Description: This measure would provide yearly bonus payments for public school teachers based on parent/guardian ratings, calculated as a percentage of average teacher salary, and funded by a sales tax increase of 0.15 percent.) Filed on October 8, 2003 by Donald D. Hansler of Spanaway. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 313 (Statement of the Subject: Initiative Measure No. 313 concerns definitions of major and minor political parties. Concise Description: This measure would define minor party to include any political party filing a written declaration of minor party status, permitting that party to nominate its candidates by convention rather than through the primary.) Filed on October 8, 2003 by Laren McLaren of Seattle. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 314 (Relating to the initiative process.) Filed on December 15, 2003 by Stephen M. Zemke of Seattle. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 315 (Relating to elections.) Filed on December 10, 2003 by Javier O. Lopez of Seattle. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 316 (Relating to taxes.) Filed on December 10, 2003 by Javier O. Lopez of Seattle. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 317 (Relating to government.) Filed on December 10, 2003 by Javier O. Lopez of Seattle. No signature petitions were submitted for checking.

REFERENDUM MEASURES
(SUPPLEMENTING 2002 LAWS, PAGE 2346)

REFERENDUM MEASURE NO. 50 Chapter 149, Laws of 2002 (Statement of the Subject: The legislature passed Engrossed House Bill 2901 (EHB 2901) concerning unemployment insurance [and voters have filed a sufficient referendum petition on parts of this bill].) Concise Description: This bill would authorize additional training benefits for unemployed aerospace workers, adjust the maximum limits for unemployment benefit payments, and make various changes to unemployment insurance rates for employers.)—Filed on March 29, 2002 by Elliot J. Swaney of Olympia. No signature petitions were presented for checking.

REFERENDUM MEASURE NO. 51 Chapter 149, Laws of 2002 (Statement of the Subject: The legislature passed Engrossed House Bill 2901 (EHB 2901) concerning unemployment insurance [voters have filed a sufficient referendum petition on parts of this bill].) Concise Description: This bill would revise laws regarding unemployment insurance for employers, including establishing new employer rate classes, increasing taxable wage bases, and imposing surcharge taxes if certain contingencies occur.)—Filed on March 29, 2002 by Elliot J. Swaney of Olympia. The measure was withdrawn by the sponsor.

REFERENDUM MEASURE NO. 52 Chapter 354, Laws of 2002 (Statement of the Subject: The legislature passed Substitute House Bill 1268 (SHB 1268) concerning state personnel reform [and voters have filed a sufficient referendum petition on parts of this bill].) Concise Description: This bill would provide collective bargaining for state employees concerning wages, hours, and working conditions, subject to legislative funding approval, and establish effective dates for state personnel reform and competitive contracting for services.)—Filed on April 4, 2002 by Elliot J. Swaney of Olympia. The measure was withdrawn by the sponsor.

REFERENDUM MEASURE NO. 53 Chapter 149, Laws of 2002 (Statement of the Subject: The legislature passed Engrossed House Bill 2901 (EHB 2901) concerning unemployment insurance [and voters have filed a sufficient referendum petition on parts of this bill].) Concise Description: This bill would revise laws regarding unemployment insurance for employers, including establishing new employer rate classes, increasing some taxable wage bases, and imposing surcharges if certain contingencies occur.)—Filed on April 8, 2002 by Elliot J. Swaney. 151, 239 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 5, 2002 general election. *Failed to pass by the following vote: Approved - 665,760 Rejected - 966,901. As a result, the portions of this bill included in the referendum did not become law.

REFERENDUM MEASURE NO. 54 Chapter 15, First Special Session, Laws of 2003 (Statement of the Subject: The legislature passed Engrossed Substitute Senate Bill 5028 (ESSB 5028) concerning water pollution [and voters have filed a sufficient referendum petition on part of this bill].) Concise Description: This bill would prohibit the department of ecology from using authority granted in the water pollution control law to place conditions on diversions or withdrawals by existing water rights holders, with certain exceptions. Filed on June 24, 2003 by Joseph W. Ryan. No signature petitions were presented for checking.

*Term "Failed to pass" indicates sponsor or Referendum was successful in attempt to prevent measure from becoming effective law.

REFERENDUM BILLS

(SUPPLEMENTING 2002 LAWS, PAGE 2351)

(Measures passed by the Legislature and referred to the voters)

REFERENDUM BILL NO. 51 Chapter 202, Laws of 2002 (The Legislature has passed House Bill No. 2969, financing transportation improvements through transportation fees and taxes. This bill would increase highway capacity, public transportation, passenger and freight rail, and transportation financing accountability through increased fuel excise taxes, sales taxes on vehicles, and weight fees on trucks and large vehicles.) The measure was submitted to the voters at the November 5, 2002 state general election and was rejected by the following vote: Approved - 674,724 Rejected - 1,081,580.

**HISTORY OF CONSTITUTIONAL AMENDMENTS
ADOPTED SINCE STATEHOOD
(SUPPLEMENTING 2002 LAWS, PAGE 2356)**

- No. 95. Section 2, Article VII. Re: **Limitation on levies.** Adopted November, 2002.
- No. 96. Section 15, Article II. Re: **Vacancies in legislative and in partisan connty elective office.**
Adopted November 2003.

